

10. FULL APPLICATION – CONTINUED USE OF LAND FOR CLAY TARGET SHOOTING AT LAND FACING THE GROUSE INN, CHUNAL (NP/HPK/0315/0169, P.4043, 403354 / 390501, 23/07/2015/AM)

This application was deferred by Planning Committee in June to allow a discussion with the applicant over hours of operation outside of the bird breeding season.

APPLICANT: MR DAVID BATTY

Site and Surroundings

The application site is located to the west of A624 (Hayfield to Glossop Road) and opposite the Grouse Inn, Chunal. The application site is clearly located in open countryside, and is some 2.5km south of Glossop and 2.8km north of Hayfield.

The land in question is an area of rough pasture, extending to about 8 hectares (20 acres) in area. A significant part of the application site is designated as Natural Zone in the Local Plan (saved Local Plan policy LC1). The site is crossed by a public footpath. The nearest neighbouring properties are the Grouse Inn to the east and Hollingworth Head Farm to the south west. Access to the application site is via a field gate which opens onto the A624.

To the east of the A624 is an extensive area of open moorland which is designated under the Countryside and Rights of Way Act 2000 as open access land. There are also areas of land to the west and north west of the site designated as open access land. Open access land gives the public the right to access open country, much of which is unenclosed, without keeping to public paths.

The open moorland to the east of the A624 is also designated as a Site of Special Scientific Interest (SSSI) and is part of the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area (SPA) and South Pennine Moors Special Area of Conservation (SAC).

The application site forms part of the ‘enclosed gritstone uplands’ of the Dark Peak Western Fringe in the Authority’s Landscape Character Strategy and Action Plan (2009). This area is characterised by high rolling hill summits, isolated farmsteads, straight roads and regular fields of variable sizes enclosed by drystone walls. There is little in the way of natural tree cover and that which does exist is limited to small groups to shelter farmsteads, isolated trees or small blocks of woodland.

Proposal

This application seeks planning permission for the use of application site for clay target shooting.

Specifically the application seeks planning permission for the use of the application site for clay target shooting at any time of the year. The applicant has advised that typically there would be 10 – 12 hours of shooting per week between 10am to 4pm. The applicant has also advised that there would typically be 40 – 50 members of the public visiting the site to shoot per week.

To facilitate the shoot, 8 shooting stations (known as safety cages) are placed on the land along with equipment to launch the clay targets. The shooting stations would be sited adjacent to the public footpath but facing away to ensure that guns can only be pointed down range and not across the footpath.

The applicant has advised that the intention is that shooters would park within the existing car park at the Grouse Inn on the north side of the A624. The applicant has also advised that he is in communication with the owner of the Grouse Inn to obtain formal permission for parking.

RECOMMENDATION:

That the application be REFUSED for the following reasons:-

- 1. The use of the application site for clay target shooting is not essential either in the national interest, for the management of the Natural Zone or for the conservation or enhancement of the National Park's valued characteristics. The proposed development would have a significant adverse impact upon the valued characteristics of this part of the National Park, which in this case include the natural beauty and character of the landscape and the sense of wildness and remoteness of the locality. Therefore it is considered that the proposed development is contrary to Core Strategy Policies GSP1, GSP2, GSP3, L1 and RT1 (A and B) and Saved Local Plan Policies LC1 and LC4.**
- 2. The activity and noise generated by the proposed development would be likely to have an adverse impact upon opportunities to experience tranquillity and quiet enjoyment of the National Park by members of the public while crossing the application site and within the local area and open moorland around the application site contrary to Core Strategy Policy RT1 (D) and saved Local Plan policy LC21.**
- 3. Parking for visitors and staff is proposed to take place on the car park at the Grouse Inn, however this car park falls outside of the application site and is not within the ownership or control of the applicant. Therefore in the absence of any mechanism to ensure that parking is secured to serve the development in perpetuity it is considered that the proposed development would be likely to result in an intensification of use of the field access to the application site, parking of vehicles on the highway and pedestrians walking from the lay-by to the north of the site all of which would be prejudicial to highway safety contrary to Core Strategy policy GSP3 and Saved Local Plan policy LT18.**

Key Issues

- Whether the proposed development is acceptable in principle.
- The impact of the proposed development upon the valued characteristics of the National Park including its landscape, tranquillity and biodiversity.
- The impact of the proposed development upon the amenity of the local area and neighbouring properties and the potential impact upon the quiet enjoyment of the National Park by members of the public.
- Parking and potential impact upon highway safety.

Relevant Planning History

Prior to 1989 – clay pigeon shooting took place on the land for several years under permitted development rights which allowed use for up to 28 days per year without the need to seek planning permission.

1989 – A three-year temporary planning permission was granted for the use of the land for clay pigeon shooting. Conditions limited this to Sundays between 9.30am and 12.30pm and on up to 10 weekdays per year between 10am and 12 noon and on up to 10 evenings per year between 6pm and 8pm. The permission also required the use to be carried out only by the applicant Mr P Devlin.

1992 – Further three-year temporary permission granted with same restrictions as the 1989 permission.

1995 – Further three-year temporary permission granted with same restrictions as the 1989 permission.

1998 – Further three-year temporary permission granted with same restrictions as the 1989 permission.

1999 – Planning permission granted for variation of condition on previous permission to allow use to be carried on by the applicant Mr D Batty.

June 2002 – a further temporary planning permission was granted. Condition 1 required the use to cease and the land to be restored to its former condition on or before 31 May 2005 unless an application to extend the permission had been agreed in writing by the National Park Authority. Condition 3 stated that no clay pigeon shooting shall take place between 1 April and 30 June inclusive, in any year to prevent disturbance during the bird breeding season. Otherwise the permission was subject to the same restrictions as the previous permissions, including the variation granted in 1999.

November 2002 – an appeal was lodged in relation to condition 3 of the planning permission granted in June 2002. The appeal was dismissed in July 2003.

No further planning application was submitted to continue the use of the land for clay target shooting and therefore the 2002 planning permission expired on the 31 May 2005. Any further use of the land for clay target shooting would therefore be unauthorised.

The applicant has informed Officers that the land has continued to be used for target shooting until shortly before this application was submitted when the applicant was informed that the use of the land for clay target shooting did not have planning permission.

May 2015 Enforcement Notice issued for the site alleging the unauthorised use of the land to a mixed use of agriculture and clay target shooting and requiring the following:

- a) the cessation of the use of the land for a mixed use comprising agriculture and clay pigeon (or target) shooting, within a period of six months;
- b) the removal from the land of any associated structures, equipment and clay debris, within a period of six months;

The applicant has appealed against the enforcement notice solely on the basis that the period allowed by the notice for compliance with any of its requirements is unreasonably short for what is required.

Consultations

Highway Authority – Objects to the development for the following reasons:

The development site is a field opposite The Grouse Inn adjacent the A624 which is a busy classified road subject to a 50mph speed limit at this location. There are no formal pedestrian margins and access to the field is steeply sloping away from the public highway and as a result exit visibility is restricted.

Whilst there is no on-site parking associated with the proposals the Highway Authority would not wish to see any increase in traffic movements using this access due to standard exit visibility and gradient issues.

The Highway Authority notes that the applicant considers that parking is available by an informal agreement with The Grouse Inn. However, this parking area is outside the red-line development boundary and does not appear to be covered by any legally binding agreement. As such this parking may not always be available e.g. the public house could be sold off and the new owners may not agree to third party use of their car park. Additionally use of this car park would still result in pedestrians having to cross the high speed road.

Whilst there is a public lay-by to the north of the site this is on the opposite side of the carriageway and would result in pedestrians having to cross a busy high speed road. Additionally as stated above there are no formal pedestrian margins which may result in pedestrians choosing to walk in the carriageway. This would be considered against the best interests of highway safety. Damage is occurring to the verge and is likely to be attributable to vehicles parking here associated with the shooting.

High Peak Borough Council (Environmental Health) – No objections.

The Environmental Health Officer is not aware of any history of noise complaints from this site, and therefore had no objection in principle based on the relatively isolated nature of the site. Casual isolated sites like this should be suitable with care and correct location of stands, however the option is open to your Authority if you think appropriate to limit the shooting hours per week say to 12 hours and the times of shooting i.e. 10am to 4pm as the hours specified by the applicant. If there is no evidence of problems however this may be hard to justify on any appeal.

Parish Council – No objection.

Natural England – No objection and makes the following comment:

Although the proposed development site falls within one of the Impact Risk Zones for the Dark Peak SSSI, part of the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area (SPA) and South Pennine Moors Special Area of Conservation (SAC), it would seem unlikely to present any risks of impact upon the notified features of the site and we therefore Natural England do not wish to comment in any detail.

In relation to the European sites, Natural England is satisfied that the risk of the proposal resulting in Likely Significant Effect upon these sites is low, and further assessment under the Habitats Regulations is therefore not required.

With regard to the Dark Peak SSSI, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

The Authority has also received a further email from Natural England which recommends that a restriction is imposed on any permission to prevent shooting during the bird breeding season. The email goes on to advise that this period is extended to at least the 15th July to allow any second / late broods time to get away and to account for any late springs.

PDNPA Ecology – No objections subject to condition and makes the following comment:

Disturbance from the shooting ground has the potential to impact Annex 1, Schedule 1, UK and local BAP bird species associated with the upland habitats surrounding the application area.

The surrounding habitat has the potential to support breeding wading birds, including snipe, curlew and lapwing. The Dark Peak SSSI, which also forms part of the Peak District Moors

Special Protection Area (SPA) is located adjacent to the site. The SPA provides specific protection for rare and vulnerable birds that are using the site. The Annex 1 species listed for the Peak District Moors SPA are merlin, short-eared owl and golden plover. Curlew are also listed in the Dark Peak SSSI Notification. In addition, other Schedule 1 and BAP species use the site.

The Authority holds lapwing records for an adjacent field to the north (2002) and there is a record for curlew within the adjacent SSSI (2004). The surrounding flushes and moorland habitats also have the potential to support breeding snipe. Lapwing, Curlew and snipe are all identified on the 'Birds of Conservation Concern 3:2009' list. Lapwing are on the red list and Curlew and Snipe are on the amber list. Curlew and Lapwing are UK and Peak District Biodiversity Action Plan (BAP) species and as such are species of principal importance. Snipe are also listed in the Local BAP.

There has also been specific concern about the rapid decline of breeding waders in the Peak District and its fringe, notably lapwing, snipe and curlew, and as such these species are considered even more vulnerable. Specific efforts are being made to try and stabilise the decline of wader species.

Concerns were raised about the potential impact on breeding waders during the 2002 application. A condition was imposed on that permission that the clay pigeon shoot did not operate during the bird breeding season, spanning from April to June (inclusive). This condition must be attached to any permission given at this site.

A survey from 1998 also showed that the site had some botanical interest. However, from continued use over the years it is believed that this interest has declined. It was noted that the herb rich vegetation was dying off underneath the plastic debris in the 1998 survey. Therefore a condition to ensure plastic debris is cleared from the site after each shooting event would be necessary to reduce the impact of the proposed development.

PDNPA Landscape – Recommends refusal.

The Landscape Officer notes that the site falls within the Natural Zone and recommends refusal on the basis of the impact of the proposed development upon the quiet enjoyment of the National Park along with the visual impact associated by the equipment kept on site and the detritus from the shooting. The Landscape Officer is also concerned about the impact of parking on the site if visitors are no longer able to use the Grouse Inn car park.

PDNPA Rights of Way Team – There is potentially a significant impact on the rights of way and people's use of them. More information is needed on the shooting positions to quantify those impacts. If firing is away from the public right of way then public safety will be unaffected.

Representations

The Authority has received a total of twenty seven letters of representation to date. All the letters support the application. Ten of the letters do not give planning reasons for supporting the application. The reasons for support that are given are summarised below. All the letters can be read in full on the Authority's website.

- The shoot is safe and has never given cause for concern on safety grounds.
- The shoot is an important local business and brings customer to other local businesses including the Grouse Inn.
- The shoot encourages participation by different age groups and different groups of the general public.

- There is ample parking space within the existing car park at the Grouse Inn.
- Walkers are escorted through the site when a shoot is taking place.
- It is inconvenient that the shoot has to close for three months a year and people have to go elsewhere to shoot.

Main Policies

Relevant Core Strategy policies: GSP1, GSP2, GSP3, L1, L2, RT1 and T7

Relevant Local Plan policies: LC1, LC4, LC17, LC18, LC21, LT10, LT18 and LT20

National Planning Policy Framework (the Framework)

Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in National Parks which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage should also be given great weight in National Parks.

Paragraph 28 of the Framework says that to promote a strong rural economy, plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

Development Plan

In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application.

Policy GSP1 of the Authority's Core Strategy, 'Securing National Park purposes and sustainable development' states that all development shall be consistent with the National Park's legal purposes and duty, which aim to conserve and enhance the natural beauty, wildlife and cultural heritage in the National Park. It also states that where there is an irreconcilable conflict between the statutory purposes, the Sandford Principle will be applied and the conservation and enhancement of the National Park will be given priority. Policy GSP2, of the Core Strategy, 'Enhancing the National Park', states, amongst other things, that opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon.

Policy GSP3, 'Development management principles', states that development must respect, conserve and enhance all valued characteristics of the site and buildings that are subject to the development proposal. The policy states that particular attention will be paid to, amongst other things, scale of development appropriate to the character and appearance of the National Park; form and intensity of proposed use or activity and impact on access and traffic levels.

Policy L1 of the Core Strategy, 'Landscape character and valued characteristics', states that development must conserve and enhance valued landscape character, as identified in the Landscape Strategy and Action Plan, and other valued characteristics. The Wildlife and Countryside (Amendment) Act 1995 requires the National Park Authority to identify areas which it considers are particularly important to conserve. For planning purposes the Authority calls these areas the Natural Zone. Policy L1 states that other than in exceptional circumstances, proposals for development in the Natural Zone will not be permitted. These exceptional circumstances are explained in Local Plan policy LC1 (see below).

Policy L2 of the Core Strategy, 'Sites of biodiversity or geodiversity importance', states amongst other things, that development must conserve and enhance any sites, features or species of biodiversity importance and where appropriate their setting; and 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.

Core Strategy Policy RT1, 'Recreation, environmental education and interpretation', states that the National Park Authority will support facilities which enable recreation, environmental education and interpretation, which encourage understanding and enjoyment of the National Park, and are appropriate to the National Park's valued characteristics. New provision must justify its location in relation to environmental capacity, scale and intensity of use and activity, and be informed by the Landscape Strategy. In the open countryside a clear demonstration of need for such a location will be necessary. Policy RT1 goes on to say that development must not prejudice or disadvantage peoples' enjoyment of other existing and appropriate recreation activities including the informal quiet enjoyment of the National Park.

Saved Local Plan Policy LC1 states that the exceptional circumstances in which development is permissible in the Natural Zone are those in which a suitable, more acceptable location cannot be found elsewhere and that the development is essential:

- i. in the national interest; or
- ii. for the management of the Natural Zone; or
- iii. for the conservation or enhancement of the National Park's valued characteristics.

LC1 goes on to state that where development is permitted, particular attention will be paid to matters such as: scale, intensity; hours of operation; vehicle movements; arrangements for parking; storage of vehicles, equipment and materials. Where necessary and appropriate, the policy states that permission will initially be restricted to a period of (usually) 2 years, and except where it is essential in the national interest, further permission will not be granted if arrangements for minimising the development's impact prove to be unacceptable in practice. Also where necessary and appropriate, the policy states that permission will initially be restricted for the personal benefit of the applicant.

Saved Local Plan Policy LC17, 'Sites, features or species of wildlife, geological or geomorphological importance', states, amongst other things, that applications in the vicinity of designated sites will be carefully considered to assess the likelihood of adverse effects and in particular, development having a significant effect on the ecological objectives or integrity of a Special Protection Area or Special Area of Conservation will not be permitted unless there is no alternative or better practical approach available, and it must be carried out for imperative reasons of overriding public interest. Where a site hosts a priority habitat or species, development will not be permitted unless there is no alternative and it is required for reasons that relate to human health, public safety, or beneficial consequences of primary importance to the environment, or for other imperative reasons of overriding public interest determined by the European Commission.

Saved Local Plan policy LT10, 'Private non-residential (PNR) parking' states, amongst other things, that in new development parking must be of a very limited nature or accompanied by on-street waiting restrictions, especially in areas served by good public transport. Saved Local Plan policy LT18, 'Design criteria for transport infrastructure' states, that the provision of safe access arrangements will be a pre-requisite of any development.

Assessment

Principle of proposed development

This application seeks planning permission for the continuation of clay target shooting on the application site. Planning permission was granted temporarily for the clay target shoot in 2002 and that planning permission expired on the 31 May 2005. The submitted application form states that the proposed development has not commenced on site, but the applicant has informed officers that the use of the land for clay target shooting has continued on site between 2005 until earlier this year when the applicant was informed that the use of the site for clay target shooting did not benefit from planning permission.

This application therefore seeks planning permission to continue clay target shooting at the site. The submitted application requests an 'all year round' permission without restrictions upon when the shoot can take place on the land. The applicant has advised that typically there would be 10 – 12 hours of shooting per week between 10am to 4pm and that there would typically be 40 – 50 members of the public visiting the site to shoot per week.

In this case a significant part of the application site is designated as Natural Zone. The Wildlife and Countryside (Amendment) Act 1995 requires the National Park Authority to identify areas which it considers are particularly important to conserve. For planning purposes the Authority calls these areas the Natural Zone. Policy L1 says that other than in exceptional circumstances, proposals for development in the Natural Zone will not be permitted. Saved Local Plan policy LC1 sets out those exceptional circumstances which are that the development is essential (i). in the national interest; or (ii) for the management of the Natural Zone; or (iii) for the conservation or enhancement of the National Park's valued characteristics.

It is considered clear in this case that the use of the application site for clay target shooting is not essential either in the national interest, for the management of the Natural Zone or for the conservation or enhancement of the National Park's valued characteristics. Therefore any approval of the proposed development would be contrary to Core Strategy Policy L1 and Saved Local Plan Policy LC1.

These policies seek to protect those parts of the National Park which are particularly important to conserve. Therefore any failure to comply with these policies must weigh heavily against the principle of the proposed development especially in the context of paragraph 115 of the Framework which makes it clear that great weight must be given to landscape conservation within the National Park.

Landscape and visual impact

Notwithstanding the fact that the site is located within Natural Zone, Core Strategy policy RT1 states that the Authority will only support a proposal for recreation development in the open countryside which encourages understanding and enjoyment of the National Park and is appropriate to the National Park's valued characteristics. This approach is considered to be consistent with the level of protection given to the scenic beauty of the National Park's landscape and paragraph 28 of the Framework which promotes sustainable rural tourism and leisure developments which respect the character of the countryside.

While the proposed clay target shooting would take within the National Park it is not considered that shooting clay targets at the application site would encourage understanding or enjoyment of the National Park. While an isolated location is likely to be a necessity for outside clay target shooting, there is no evidence to demonstrate why the proposed activity must be located on the application site, especially bearing in mind the sensitivity of the site and its location within the Natural Zone.

The application site is situated in an open countryside location adjacent to open moorland and is clearly visible from the adjoining road and nearby public rights of way, including the public footpath which crosses through the application site.

No shooting was taking place when the Officer site visit took place, but it was evident that clay target shooting does take place on the land. Equipment including the safety cages, clay target launcher and boxes of unused clay targets were present on the land. There was also a large spread of orange and black coloured debris built up from used clay targets down range from the shooting positions, with a significant amount of debris on part of the route of the public footpath.

The equipment and debris on the site is clearly visible from the footpath which passes through the site and also visible from the road as it passes the site. From these viewpoints, the equipment and debris does result in a visual impact which is harmful to the character and appearance of the application site.

The applicant has advised Officers that the clay target launchers were under-going maintenance and that these are not typically visible on the site and that bio-degradable clays are used and that the site is tidied on a weekly basis. Given the condition of the application site at the time of the Officers site visit and the typical proposed 10 – 12 hours of shooting each week it is considered that a significant amount of debris would remain on site at any one time and that the resultant visual impact would be likely to be an inevitable consequence of the proposed development.

The visual impact of the proposed development would be less noticeable from vantage points in the wider landscape, however noise from the proposed shooting would be very likely to be audible over a wide radius in the local area and particularly from open access land on the moorland adjacent to the site.

There is an existing low level back ground noise generated by the traffic on the A624 which runs adjacent to the application site, however there is a significant amount of land around the application site which is open to the public where there are opportunities to experience the tranquillity of the wildness and the remote nature of the moorland. The noise generated from the proposed development when shooting is taking place is very likely to be audible from the surrounding access land.

It is therefore considered that the noise generated by shooting is likely to have an adverse impact upon sense of wildness and tranquillity which can be currently enjoyed in the area around the application site by visiting members of the public. The tranquillity and wildness of these areas for a very important aspect of the landscape character of the moorland and it is considered that the proposed development would be likely to have an adverse impact upon this valued characteristic.

It is therefore considered that the use of the site, if approved, would be likely to have a harmful visual and landscape impact. The visual impact of the proposed development combined with the impact of the noise generated by the proposed shooting would have a harmful impact upon the landscape character and the sense of wildness and tranquillity which can currently be experienced on the moorland around the application site contrary to Core Strategy policy GSP3 and L1 and Saved Local Plan policy LC4.

Impact upon amenity and quiet enjoyment of the National Park.

The potential for noise disturbance in the landscape around the application site is also an important consideration in relation to Core Strategy Policy RT2 D which states that proposals for recreation development must not prejudice or disadvantage peoples' enjoyment of existing recreation activities including the informal quiet enjoyment of the National Park. Promoting opportunities for members of the public to experience tranquillity and quiet enjoyment is one of the National Park's key valued characteristics.

Officers are concerned that the noise generated by shooting at the application site would significantly detract from people's opportunities to experience tranquillity and quiet enjoyment of the moorland in the locality of the application site. The noise from shooting would be clearly audible by walkers as they pass through the site and this would have a significant impact compared to the enjoyment of the footpath by walkers when a shooting is not taking place.

Officers are also concerned that the noise and activity on the application site when shooting takes place is also likely to deter members of the public who would otherwise use the footpath which crosses through the application site. There are no concerns that the footpath would be physically blocked when shooting takes place and there is no evidence to indicate that the safety of walkers would be jeopardised by shooting activities because all shooting positions face away from the footpath and not over it.

The applicant has stated that when a shoot takes place signs and red flags are erected at either entrance to the application site and that if a walker approaches the site that a member of staff approaches and is able to escort the walkers(s) as they cross the site. The applicant has also stated that over the past 12 months only four walkers have been recorded as crossing through the application site and none have raised any issues or concerns to the applicant.

The fact that only a relatively small number of users have been recorded by the applicant as using the footpath is not given significant weight. The number of users of a footpath does not indicate the relative importance of that path and Officers remain concerned that noise and disturbance generated when a shoot is taking place may be off-putting to members of the public who as a result may choose not to cross through the site at such times or walk a different route.

It is therefore considered that the proposed development would be likely to prejudice people's quiet enjoyment of the National Park both in the wider area around the application site and from the footpath as it crosses through the application site.

Notwithstanding the above, there are no concerns that the proposed development would have a significant impact upon the residential amenity of any neighbouring property or that of occupants and visitors to the Grouse Inn. This is due to the relatively isolated nature of the site and the fact that the Environmental Health Officer has advised that he is not aware of any history of noise complaints from this site.

Highway safety

Parking and highway safety is an issue which has been raised by Officers with the applicant and in the consultation response from the Highway Authority. The application site is located opposite The Grouse Inn and adjacent the A624 which is a busy classified road subject to a 50mph speed limit at this location. There are no formal pedestrian margins on either side of the highway and access to the application site is steeply sloping away from the public highway and as a result exit visibility through the field access onto the highway is restricted.

Due to the restricted visibility from the field access, Officers agree with the Highway Authority that any intensification of use of this access by vehicles visiting the site in relation to the proposed development would be likely to be prejudicial to highway safety. It is also considered that for similar reasons that any parking of vehicles by visitors to the development on the highway verge adjacent to the access would be prejudicial to highway safety and likely to result in damage to the highway verge. Whilst there is a public lay-by to the north of the application site, this is on the opposite side of the road and would also result in pedestrians walking along the busy highway crossing the road to reach the application site.

The applicant has stated that visitors to the shoot do not park either within the application site or on the highway verge and that historically visitors have parked on the Grouse Inn car park which has space for approximately 50 vehicles.

The Grouse Inn and its car park do not form part of the application site and are not under the ownership or control of the applicant. This is important because any informal agreement that the applicant may have with the owner of the Grouse Inn would not be enforceable and cannot be given any significant weight because the agreement may come to an end at any time. This would be likely to result in visitors to the application site parking either within the application site or on the highway verge. It is also understood that The Grouse Inn was sold to a new owner at the end of May and there is no enforceable way to guarantee that the new owner will allow vehicles to park on pub car park.

This issue has been discussed with the applicant who has stated that he is in communication with the new owner of the Grouse Inn to draw up what he describes as a 'formal letter' to allow use of the car park. However, for any agreement to be enforceable by the Authority it would be necessary for the applicant, the owner of the pub (and any other party with an interest in the land) to enter into a planning obligation with the Authority to secure parking provision in perpetuity. It is not clear at this stage whether the applicant and new land owner would be willing to enter into a planning obligation to secure car parking at the Grouse Inn. In the absence of this it is considered that the continued use would have the clear potential to result in parking either within the application site, on the highway verge or on the lay-by to the north of the application site which would be prejudicial to highway safety, contrary to Saved Local Plan policy LT18.

Biodiversity

Noise disturbance from the shooting activities has the potential to impact Annex 1, Schedule 1, UK and local Biodiversity Action Plan bird species associated with the upland habitats surrounding the application site. The surrounding habitat has the potential to support breeding wading birds, including snipe, curlew and lapwing. The Dark Peak Site of Special Scientific Interest (SSSI), which also forms part of the Peak District Moors Special Protection Area (SPA) is located adjacent to the site. The SPA provides specific protection for rare and vulnerable birds that are using the site. The Annex 1 species listed for the Peak District Moors SPA are merlin, short-eared owl and golden plover. Curlew are also listed in the Dark Peak SSSI Notification. In addition, other Schedule 1 and Biodiversity Action Plan (BAP) species use the site.

The Authority holds lapwing records for an adjacent field to the north (2002) and there is a record for curlew within the adjacent SSSI (2004). The surrounding flushes and moorland habitats also have the potential to support breeding Snipe. Lapwing, Curlew and Snipe are all identified on the 'Birds of Conservation Concern 3:2009' list. Lapwing are on the red list and Curlew and Snipe are on the amber list. Curlew and Lapwing are UK and Peak District BAP species and as such are species of principal importance. Snipe are also listed in the Local BAP.

There has also been specific concern about the rapid decline of breeding waders in the Peak District and its fringe, notably Lapwing, Snipe and Curlew, and as such these species are considered even more vulnerable. Specific efforts are being made to try and stabilise the decline of wader species.

Natural England has been consulted and advises that although the application site falls within the Impact Risk Zone for the designated sites (listed above) that it is unlikely that the proposed development would present any risks of impacts upon the notified features of the site. Natural England is therefore satisfied that the risk of the proposal resulting in likely significant effect on these designated sites is low and that further assessment under the Habitats Regulations is therefore not required. Natural England also advises that the Dark Peak SSSI will not be affected and therefore that the SSSI does not represent a constraint in determining this application.

The Authority's Ecologist advises that given the proximity of the site to adjacent designated sites and the fact that the Authority has evidence of lapwing and curlew in close proximity to the application site that if permission is granted a condition would be required to prevent any shooting taking place between the 1st April and 15th July (inclusive) in any year. Following re-

consultation Natural England also agree that the above condition would be necessary to mitigate any potential impact upon ground nesting birds.

The Authority's Ecologist also advises that a survey in 1998 showed that the site had some botanical interest but that from continued use over the years it was believed that this interest had declined. It was noted in the 1998 survey that herb rich vegetation on the application site was dying off under plastic debris. This adds to concern already raised that the use of the proposed site for clay target shooting inevitably results in significant debris on the site.

Planning history

There is a long planning history which is relevant to this planning application. The applicant correctly states that clay target shooting has been taking place on the land for a number of years. The Authority has granted planning permission for the use of the land for clay target shooting on a temporary basis in the past on a number of occasions, the first permission was granted in 1989 and the most recent permission (application code NP/HPK/0302/034) was granted in 2002 (the 2002 permission). The 2002 permission was granted on a temporary basis for three years. No further planning application was submitted and therefore the 2002 planning permission expired after the 31 May 2005.

The fact that the Authority has granted planning permission for the proposed development in the past is a material consideration. However, since permission was granted in 2002 the Development Plan has changed with the adoption of the Core Strategy and Government policy has significantly changed with the publishing of the National Planning Policy Framework. The changes to the Development Plan and National Policy and the intervening period of time between the 2002 application and today mean that only limited weight can be given to the Authority's previous decision to approve planning permission.

Furthermore it is clear that the reason granted planning permission on a temporary basis in 2002 was to allow the Authority to retain control over the use of the application site and to allow the Authority to assess the impact of the use upon the character of the locality. Having assessed the proposed development during the course of the current planning application it has been found that the use of the land for clay target shooting would have a significant adverse impact upon the character and appearance of the application site and the locality.

Therefore it is considered that there is no argument that planning permission should be granted simply on the basis of the Authority's past decisions because it is clear that the Authority's intention in the past has been to retain control over the use of the site to allow an assessment of the impact of the development and because the Development Plan and other material considerations are different today compared to when the last planning application was determined in 2002.

The applicant has stated that the use of the land for shooting has continued until earlier this year when the applicant was advised that the use of the site for clay target shooting did not have planning permission. Any continuation of shooting at the site over and above that allowed as permitted development would be unauthorised. There is no evidence in this case that the use of the land is lawful and therefore it is considered that no weight should be given to the fact that the shoot has continued without the benefit of planning permission.

The Authority has issued an enforcement notice which requires the cessation of the use of the land for clay target shooting and the removal of any structures, equipment and debris within a period of six months. The enforcement notice is a material consideration. The delegated report seeking authority for enforcement action concluded that the use of the land for clay target shooting has a detrimental impact upon the valued characteristics of the local area, would have the potential to impact upon protected bird species and would be likely to give rise to highway safety issues.

The applicant has appealed against the enforcement notice on the grounds that the six month period allowed by the notice for compliance is an unreasonably short time period for what is required. Notwithstanding the appeal, the effect of the enforcement notice is that the Authority would be able to take action (either after the six month period, or potentially a longer period if allowed by the Planning Inspector at appeal) to secure that the permanent use of the land for clay target shooting ceases and that related equipment and debris is removed from the land.

In the absence of any planning permission, the use of the land for clay target shooting is effectively limited to the 28 day temporary period (per calendar year) which is allowed as permitted development and which can be carried out without planning permission. These permitted development rights would mean that clay target shooting could only take place on the site for 28 days in any one year and no equipment or materials would be allowed to be stored on the land on days when shooting is not taking place.

Outcome of discussions between Officers and the applicant requested by Planning Committee

Officers have met with the applicant to discuss in detail the hours of operation of the proposed clay target shoot along with planning conditions and a planning obligation which could be used to control the development if planning permission was granted.

The applicant has clarified that the proposal is for shooting to take place every Sunday between 10:00 and 12:00 and otherwise to take place during the week up to a maximum of 10 hours shooting in any one week. No shooting is proposed to take place outside the hours between 9:30 to 16:30 on any day. If permission is granted planning conditions could be imposed to restrict the operation of the use as proposed. A condition could be imposed to prevent any shooting taking place within the bird breeding season (between the 1 April and 30 June in any year). The applicant has made clear that his clear preference is that this condition is not imposed to allow shooting to take place throughout the year. However, having had regard to advice from the Authority's Ecologist and Natural England along with the Inspector's appeal decision in 2003 it is considered that a condition would be necessary to ensure that the development does not have a harmful impact upon protected bird species in accordance with policies L2 and LC17 and the Framework.

Officers and the applicant also agree that planning conditions requiring the use of bi-degradable clays and fibre wad cartridges and requiring the maintenance of a dark recessive colour finish for the trap boxes and shooting stands are necessary to minimise the impact of the use on the site. It is also agreed that a condition prohibiting any shooting taking place over the highway or public footpath crossing the site is necessary in the interests of safety.

Finally, the applicant has indicated that he is willing to enter into a planning obligation with the Authority under S.106 of the Town and Country Planning Act to ensure that parking spaces at the Grouse Inn are made available for the use of members of the public visiting the clay target shoot and staff in perpetuity. Such an obligation would of course require the owners of the Inn to also agree to be bound by the deed.

It is considered that the applicant's offer of a planning obligation can be given weight because such an obligation would be necessary to make the development acceptable in planning terms, would be directly related to the development and fairly and reasonably related in scale and kind to the development. If the development were to be permitted the completion of such a planning obligation would be required before any planning permission was issued.

Conclusion

The use of the application site for clay target shooting is not essential either in the national interest, for the management of the Natural Zone or for the conservation or enhancement of the National Park's valued characteristics. The proposed (or continued) use would have a significant

adverse impact upon the valued characteristics of this part of the National Park, which in this case include the natural beauty and character of the landscape and the sense of wildness and remoteness of the locality. Therefore it is considered that the proposed development is contrary to Core Strategy Policies GSP1, GSP2, GSP3, L1 and RT1 A and B and Saved Local Plan Policies LC1 and LC4.

The activity and noise which would be generated by the use on the application site is likely to have an adverse impact upon opportunities to experience tranquillity while passing through the application site on the footpath and within the local area around the application site contrary to Core Strategy Policy RT1 D and saved Local Plan policy LC21.

Parking for visitors to the development is proposed to take place on the car park at the Grouse Inn, however this car park falls outside of the application site and is not within the ownership or control of the applicant. Therefore in the absence of any mechanism to ensure that parking is secured to serve the development in perpetuity it is considered that the proposed development would be likely to result in an intensification of use of the field access, parking on the highway and pedestrians walking from the lay-by to the north of the site all of which would be prejudicial to highway safety contrary to Saved Local Plan policy LT18.

Officers accept that the activity would bring visitors into the National Park and that this may bring some benefit to local businesses, especially the Grouse Inn. However these benefits are not considered to outweigh the significant harm which has been identified in this case bearing in mind the great weight which is afforded to the conservation of the National Park. The relevant development plan policies are up-to-date and in accordance with the National Planning Policy Framework. In the absence of any further material considerations the proposal is therefore considered to be contrary to the development plan and consequently the application is recommended for refusal.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil