

DELEGATED DECISION REPORT

HPK/2024/0372
Valid 02/09/2024

**LAND LOCATED TO THE
WEST OF UPPER
BLINDLOW LANE
FLAGG**

**RETROSPECTIVE CREATION
OF AN AGRICULTURAL
TRACK AND ACCESS

(FULL - MINOR)**

MAIN ISSUES

- Principle of Development
- Landscape and Visual Impact
- Ecology
- Heritage
- Highway Safety

DESCRIPTION OF SITE

The application refers to a lengthy access track that spans across an area of open agricultural land totalling approximately 0.7ha, that runs between Upper Blindow Lane and a single hard surfaced track that extends southwards from 'The Ditch', an unclassified road off the A5270, in the Flagg and Sterndale Moor area of the Borough.

A new access to Upper Blindow Lane has been created, with the entirety of the track being subject to extensive engineering works which includes the laying of crushed limestone hardcore and the removal of some dry stone walls which enclosure agricultural parcels of land.

The site lies in an exposed elevated location, with the northerly aspect of the site located within the Peak District National Park (PDNP). The greater area of the site is within the High Peak Borough Authority area and lies within the open countryside and within the 'Plateau Pastures' Landscape Character Area (LCA) as identified within the Landscape Character Assessment SPD (2006).

The topography of the land is steeply sloping in places.

The laying of this track and associated engineering operations have been carried out without securing the appropriate planning consent under the legislative framework.

PROPOSAL

The application therefore seeks retrospective full planning permission for the access track and new access on to Upper Blindow Lane as presented on the Location Plan (Ref: 0006170-01 Rev F) which has an approximate width ranging from between 3.5m to 3.8m. Overall the track extends some 1.3km in length.

The supporting Planning Statement notes that as part of the proposals, a new drystone wall to match the existing wall will be built at the access with Upper Blindlow Lane to connect the existing wall with the new field gates, constructed in reclaimed limestone.

The justification for this new track is centred on the improvement to safety for agricultural purposes relating to the movement of vehicles and livestock, distribution of feed, and the cultivation and harvesting of crops (owing to the steep topography of the area) and that as a consequence of providing greater connectivity between agricultural fields, this would improve traffic conditions and safety as agricultural vehicles would be removed from the surrounding road network.

Photo 1 – Newly laid track



Photo 2 – Established track



The above photographs are taken from the Planning Statement submitted with the application. The photograph on the left looks westwards from the newly created junction with Upper Blindlow Lane, whilst the photograph on the right is taken from the top of the summit seen on the left looking eastwards showing the track that previously existed before the unauthorised works took place.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S7 Buxton Sub-area Strategy

EQ2 Landscape Character
EQ3 Rural Development
EQ5 Biodiversity
EQ6 Design and Place Making
EQ7 Built and Historic Environment
EQ8 Green Infrastructure
CF6 Accessibility and Transport

Supplementary Planning Documents

Landscape Character Assessment SPD (2006)
Design Guide SPD (2018)

National Planning Policy Framework 2024

Achieving Sustainable Development	Chapter 2
Building a Strong Competitive Economy	Chapter 6
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12
Conserving and Enhancing the Natural Environment	Chapter 15
Conserving and Enhancing the Historic Environment	Chapter 16

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None

CONSULTATIONS

Publicity

Site Notice expiry date: 24th October 2024
Neighbour consultation period ends: N/A
Press Advert: N/A

Public Comments

None

Town / Parish Comments

N/A

Peak District National Park Authority

This response includes the respective assessments of the National Park Authority's Landscape, Ecology, and Archaeology teams.

As a summary, the Authority consider that this retrospective application is not sympathetic to local character or the landscape setting and therefore object on landscape grounds.

Furthermore, given the significant an ongoing loss of grassland habitat, the Authority regard the loss of such semi-improved grasslands to be acceptable only if adequate and appropriate avoidance, mitigation and compensation measures are put in place, so that there is no net loss of ecologically valuable grassland habitat. In this case, it is considered that the proposed “compensatory” replacement of semi-improved grassland with extension of a tree shelterbelt as wholly inadequate, even before consideration of BNG.

Regarding BNG, the basis of the ecological and BNG assessment is flawed for the following reasons:

- it uses an incorrect baseline grassland habitat
- it doesn't include the length of track inside the NP
- it doesn't consider scrub and/or trees removed during the construction process
- it doesn't consider the removal of walls to facilitate track construction
- it proposes planting trees to mitigate for grassland loss
- the application is inconsistent regarding the pre-development biodiversity value.

The application form states that there has been loss or degradation of onsite habitat prior to development, yet it records the biodiversity value as 1.56 both before and after these activities

Finally, the National Park Authority support the advice of the DCC archaeological team that the application should include a heritage impact assessment and this needs to consider the area's features and archaeological potential both inside and outside the National Park. The justification and brief guidance of what this needs to include is set out in the DCC archaeology response which the Authority fully support. For the reasons summarised above, the Authority objects to this retrospective application.

PNDPA Landscape Team

In the Peak District Landscape Strategy, the site is located in the White Peak LCA and within the Limestone Hills & Slopes LCT.

This is a high pastoral landscape with a varied undulating topography and some steep slopes. This is a remote, sparsely populated landscape with a regular pattern of mostly medium to large walled fields, interspersed in places with extensive patches of rough ground and elsewhere by smaller regular fields. There are wide open views to distant skylines, especially around the edges of the White Peak.

Key characteristics include:

- High, undulating, in places steeply sloping topography
- Frequent rock outcrops on steeper ground
- Rich wildlife habitats including large patches of limestone grassland and limestone heath on the highest ground
- A regular pattern of medium to large walled fields
- Occasional groups and belts of trees
- Prehistoric monuments, often on hilltops

- Wide open views to distant skylines

Key priorities:

The overall strategy for the White Peak should be to protect and manage the distinctive and valued historic character of the settled, agricultural landscapes, while seeking opportunities to enhance the wild character and diversity of remoter areas. In the Limestone Hills & Slopes, the priority is to protect and restore the diversity of the more remote landscapes and, where possible, to create a mosaic of extensive areas of unenclosed limestone grassland, heath, scrub and woodland.

Guidelines include:

- Protect and maintain historic drystone walls
- Protect and maintain the historic field pattern
- Enhance the diversity of agricultural grassland
- Manage the network of minor roads to maintain character and local access

Description of works:

The works also seem to include a significant amount of drystone wall removal at the same time as the tracks were constructed (and as confirmed in the Planning Statement para 6.12) this material has been used to create the tracks), the creation of the new tracks themselves and creation of new access to the highway (on Upper Blindlow Lane, the boundary of the National Park).

Potential conflict with character / priorities:

The applicant asserts in their planning statement (Para 2.6) that “Agricultural tracks using crushed limestone are characteristic of this area, being part of the traditional landscape”. The Peak District Landscape Strategy does not recognise tracks as a Key Characteristic of the Limestone Hills & Slopes; conversely limestone walls, from which the applicant acknowledges stone was taken for construction of the track (Planning Statement 6.12 “The proposed agricultural access track is constructed from limestone sourced from within the farm and its field walls”), are identified as a Key Characteristic. The creation of new tracks and removal of historic drystone walls is considered to conflict with the priorities and guidelines for this valued landscape.

Tracks are intrusive new features and need to be carefully designed and sited to minimise landscape and visual impact – it is absolutely clear that the siting and design of these tracks does not follow good design principles.

It is noted on page 2 of the submitted Planning Statement, two photographs – one of the unapproved track and one of an existing track elsewhere – it is clear that the nature of the construction of the tracks is different and it is somewhat disingenuous to suggest that the track subject to this retrospective application would eventually look identical to the other track – it is considered unlikely to be the case (due to a number of factors including the size of stone used, width of the track etc).

The historic drystone walls (and the historic field pattern they create) are integral elements of the character of this special landscape – and their removal as part of this scheme (to create material for the track construction) has resulted in a significant degradation of / harm to landscape character.

The works would be visible from large areas within the National Park (as shown on the indicative viewshed below).

The new track (and associated wall removal) is deemed to fundamentally conflict with valued landscape character and, as such, would be contrary to PDNPA Policy L1 which states 'Development must conserve and enhance valued landscape character, as identified in the Landscape Strategy and Action Plan, and other valued characteristics'.

While the track works / wall removal is mostly outside the boundary of the Park (one short section falls within), they are still within its setting.

In terms of the setting of National Parks in national planning policy (as defined in the NPPF), the National Park Authority's view is that the scheme conflicts with para 182 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks... development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas'.

The Authority's view is that the retrospective scheme is not sensitively located and designed to avoid or minimise adverse impacts on the Peak District National Park – and actually results in harm and adverse impacts on the Park and its setting.

The application would also conflict with para 135 (c) 'Planning.....decisions should ensure that developments (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'.

The works in this retrospective application are not sympathetic to local character or their landscape setting.

PDNPA Ecology

The BNG assessment doesn't consider the short stretch of track to the north inside the National Park. The BNG assessment categorised the grasslands outside the National Park prior to track construction as 'temporary grass and clover leys'. This assessment is incorrect- see below- and therefore calculation of the pre-development biodiversity value is incorrect (underestimated).

1. Grasslands outside the National Park

A survey carried out by the PDNPA on 07/07/2023 showed that these were permanent semi-improved grasslands, with a scatter of priority habitat indicator species including hay rattle, knapweed and ox-eye daisy.

This still appeared to be the case immediately pre-development, and we consider this pre-development field-based assessment to be more reliable than the BNG assessment accompanying the application, which was based on Google Earth images and post-development assessment.

In the event that the permanent semi-improved grassland recorded on 07/07/23 was subsequently degraded prior to development, BNG regulations are clear that where unauthorised degradation of the onsite habitat has taken place between 30 January 2020 and the date of the submission of the planning application, the biodiversity pre-development value of the onsite habitat is the biodiversity value of the habitat immediately before the carrying out of these degradation activities.

2. Grasslands inside the National Park

The PDNPA holds records for the field inside the National Park that show that, when surveyed in 2006 for the production of a Farm Environment Plan and an associated Environmental Stewardship Scheme application, the field also supported species rich semi-improved grassland.

3. Possible Scrub/tree interest

The photo below taken on 9th May 2024 from the top of Greatlow looking east shows the southernmost dog leg of the track along with a pile of cut trees/scrub. This is likely to have come from the line of the new track indicating that construction caused the removal of scrub and/or trees that have also not been considered in the ecological and BNG assessment. If not from this location, the other alternative is the wall along the field boundary in the foreground which had been removed to facilitate the track construction – see point 4 below.

4. Stone used for track construction

Analysis of aerial photos and the reported situation on the ground in May 2024 indicate that existing drystone walls were removed at the same time as the tracks were constructed and the assumption is that this was used in their construction. The Planning Statement accompanying the planning application (para. 6.12) confirms that the “access track is constructed from limestone sourced from within the farm and its field walls”. The plan below shows the wall removal as evident in May 2024 compared to the situation on the ground at the time of the ecological survey in July 2023 and an analysis of Google pro aerial photos from 2022. This wall removal amounts to 850m in total.

The assumption that the stone was used in the track construction is also indicated by photos taken from the adjacent ground on 9th May 2024 during the track construction which show walling sized stone as the basis for these.

Drystone walls are valuable landscape and ecological features providing breeding, feeding, resting up and hibernating sites for various species. In the White Peak they are commonly used by great crested newts. Whilst the closest records for these are approx. 2.5kms away – see map below – this area is poorly recorded and its not inconceivable that the walls were of value for them. As part of the track construction,

the destruction of these features should also have been considered in the ecological and BNG assessment.

5. Conclusion

Evidence suggests that the grasslands where the track has been constructed were species rich semi-improved in character. Semi-improved grasslands in the wider Peak District are an invaluable resource for commoner plants, and for invertebrates. Managed appropriately they can also be valuable for birds, amphibians and small mammals. Given the significant and ongoing loss of grassland habitat, we regard the loss of such semi-improved grasslands to be acceptable only if adequate and appropriate avoidance, mitigation and compensation measures are put in place, so that there is no net loss of ecologically valuable grassland habitat. In this case we would therefore regard the proposed “compensatory” replacement of semi-improved grassland with extension of a tree shelterbelt as wholly inadequate, even before consideration of BNG.

The basis of the ecological and BNG assessment is flawed for the following reasons:

- it uses an incorrect baseline grassland habitat
- it doesn't include the length of track inside the NP
- it doesn't consider scrub and/or trees removed during the construction process
- it doesn't consider the removal of walls to facilitate track construction
- it proposes planting trees to mitigate for grassland loss
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The application form states that there has been loss or degradation of onsite habitat prior to development, yet it records the biodiversity value as 1.56 both before and after these activities

PDNPA Archaeology

The short section of track that falls inside the National Park does not directly affect any known archaeological features, other than the putative roman road already identified by the DCC archaeology team.

The wider landscape contains post-medieval agricultural features (field boundaries, lost field barn, dewpond, quarry pits and clamp kiln site, shelter belt) but not of these are directly along the line of the track.

The presence of the putative line of the Roman Road close to the NP boundary and the site of an extant early medieval barrow c.300m to the north demonstrates greater time depth and potential, even if extant features are not known on this particular site. The National Park Authority support the advice of the DCC archaeological team that the application should include a heritage impact assessment and this needs to consider the area's features and archaeological potential both inside and outside the National Park.

The justification and brief guidance of what this needs to include is set out in the DCC archaeology response which the Authority fully support.

Derbyshire County Council Archaeology

Initial Comments

The route of the newly formed agricultural trackway crosses presumed line of the Roman road from Derby and Carsington to Buxton, recorded on the Derbyshire HER, (MDR11318, MDR377).

It also skirts round the edge of a 19th century limekiln and associated workings also recorded on the Derbyshire HER (MDR14670) and adjacent, slightly to the north of Blind Low, the site of a possible prehistoric barrow also recorded on the HER (MDR1210).

It is possible that the creation of this agricultural track will have impacted known or suspected archaeological assets and had this application been in advance of the creation of the track we would have recommended that the application should include a Heritage Impact Assessment in accordance with Para 200 of NPPF.

However, though the works have already been completed the requirements of NPPF Para 200 and 211 regarding heritage assets should be met. My recommendation therefore is that consent should be refused until the applicant has put in place a retrospective Heritage Assessment so that we can understand the construction method for the trackway and document its resulting potential impacts on these known and suspected heritage assets.

The report should include photographic evidence of the trackway where it may affect said assets and should be authored by a suitably experienced archaeological organisation or archaeologist.

Further Comments:

The route of the newly formed agricultural trackway crosses presumed line of the Roman road from Derby and Carsington to Buxton, recorded on the Derbyshire HER, (MDR11318, MDR377). It also skirts round the edge of a 19th century limekiln and associated workings also recorded on the Derbyshire HER (MDR14670) and adjacent, slightly to the north of Blind Low, the site of a possible prehistoric barrow also recorded on the HER (MDR1210).

It is possible that the creation of this agricultural track will have impacted known or suspected archaeological assets and had this application been in advance of the creation of the track we would have recommended that the application should include a Heritage Impact Assessment in accordance with Para 200 of NPPF. However, though the works have already been completed the requirements of NPPF Para 200 and 211 regarding heritage assets should be met. My recommendation therefore is that consent should be refused until the applicant has put in place a retrospective Heritage Assessment so that we can understand the construction method for the trackway and document its resulting potential impacts on these known and suspected heritage assets.

The report should include photographic evidence of the trackway where it may affect said assets and should be authored by a suitably experienced archaeological organisation or archaeologist.

Derbyshire Wildlife Trust

After a review of the information on the planning portal and our Biological Records Database, we advise that amendments are required to the BNG calculations and proposed mitigation, prior to determination.

A BNG Report has been submitted (Estrada Ecology, August 2024) with this application. This assesses the impacts of the track, assuming a previous baseline of agricultural grassland: 'Temporary grass and clover leys'. Tree planting is proposed to deliver +0.19 habitat units (12.48%).

However, after review of the comments from the Peak District National Park, it appears that the baseline grassland has been somewhat undervalued. PDNP indicate that the fields comprised permanent species-rich, semi-improved grassland. A review of our Biological Records Database returns numerous records of flowering plants for the fields, including meadow indicators. A pocket of Lowland Meadow is also mapped approximately 140 m north of the eastern end of the track.

Based on the information to hand, it would seem that 'other neutral grassland' is a more representative habitat classification for the onsite grassland. This is a habitat of medium distinctiveness and therefore requires compensation via creation of other habitats of medium distinctiveness. Whilst like-for-like is not strictly required for 'other neutral grassland' in the metric, PDNP indicate a preference to avoid net loss of such grassland habitats, which we would support. It is likely that the fields were once of greater value prior to historic agricultural improvement and the continued deterioration and reduction of grassland habitat in the area should not be permitted.

Furthermore, PDNP suggest that scrub loss has also occurred and we suggest that the ecologists' study aerial mapping to see if it is possible to gauge the areas of scrub and add these to the metric.

The metric should be updated to take into account this information on baseline habitats and a new proposal put forward to compensate for losses. We suggest that native, species-rich grassland creation and / enhancement would be the preferred approach.

We note that no Ecological Appraisal has been undertaken to identify protected species receptors. This is disappointing and works could have resulted in impacts to species such as nesting birds, reptiles and amphibians. We have reviewed our Biological Records Database and note numerous field ponds in proximity to the track and in the local area, including Greatlow Field Pond Local Wildlife Site, which is directly connected to the track via stone wall. No records of great crested newts exist on our database for these ponds but that does not prove absence and the landscape

is ideal for this species. At this retrospective stage, there is no way to determine whether individuals have been directly impacted during works, however we can conclude that the losses of stone walls would be detrimental to the dispersal of reptiles and amphibians throughout the landscape.

We do not support the removal of such features and advise that these should be reinstated.

Derbyshire County Council Highways

The proposed access is located directly off Upper Blindlow Lane which is a relatively straight road with wide verges and consequently has good forward visibility particularly in proximity to the access location.

Emerging visibility is also considered suitable in both directions, again when considering the alignment of Upper Blindlow Lane and the wide grassed verges which permit visibility splays to be achieved within the extents of the public highway in both directions.

The internal agricultural track links the new access on Upper Blindlow Lane with an existing track which itself accesses the public highway known as The Ditch in Chelmorton. There is no reason to believe that the access track will lead to a significant increase in vehicle movements on either Upper Blindlow Lane or The Ditch.

Based on the above comments, it is considered that the application will not have an unacceptable impact on highway safety and as such there are no highway authority objections to the application.

OFFICER COMMENTS

Principle of Development

The application seeks retrospective planning permission for a lengthy access track that the applicant submits is to be used in conjunction with agriculture. The site lies within the open countryside. The northern end of the track lies within the PDNP, with the remaining aspects of the track being situated within its immediate setting.

Local Plan (LP) Policy S1 expects all new development proposals to protect and where possible enhance the environment. One of the ways in which this is to be achieved is by protecting and enhancing the natural and historic environment of the High Peak and its surrounding areas including the Peak District National Park and to secure high quality local, distinctive and inclusive design in all development.

LP Policy S7 sets out the strategy for the Buxton Sub-area. The policy aims to protect and enhance the unique character of Buxton's natural environment by (amongst other things) ensuring that development protects or enhances the landscape character and the setting of the Peak District National Park.

LP Policy EQ3 refers to all development proposals in the rural areas. Outside settlement boundaries, the Council will seek to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness, including the setting of the Peak District National Park. The policy supports proposals for agriculture and related development which help sustain existing agricultural enterprises, and also requires all development to be of a high quality design and protect or enhance the landscape character and setting of the Peak District National Park. (Our Emphasis).

Chapter 15 of the NPPF contains relevant national policies aimed at conserving and enhancing the natural environment. Paragraph 189 of the NPPF makes clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks.

The application contains little to no information regarding how the agricultural land is used in conjunction with an existing agricultural enterprise (i.e. a trade or business), for example whether the applicant is involved with arable or pastoral farming activities, the details of such enterprise, and what justification there is for creating the track.

As such, whilst there can be no doubt that the land is in agricultural use, the applicant has failed to demonstrate whether the land is used in conjunction with an existing active agricultural enterprise, what the details of this enterprise are, and why the track is necessary to sustain that enterprise. In the absence of such information, the application is in direct conflict with LP Policy EQ3 and is therefore not supported as a matter of principle.

Furthermore, other matters relating to principle include resultant landscape and visual impacts to the rural character of the area, including direct and indirect impacts upon the setting of the Peak District National Park, having regard to LP Policies S1, EQ2 and EQ3, and relevant paragraphs contained under Chapter 15 of the NPPF.

Landscape and Visual Impacts

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ2 seeks to protect, enhance and restore the landscape character of the Plan Area by requiring development to have particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, and that are sympathetic to and are informed by the distinctive landscape character areas as identified in the Landscape Character Supplementary Planning Document. Proposals will be resisted which harm or be detrimental to the character and appearance of the local and wider landscape.

LP Policy EQ3 refers to rural development proposals which lie outside of the defined built-up area boundaries and seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

The Landscape Character Assessment SPD (2006) identifies that the site lies within the 'Plateau Pastures' LCA described as a gently rolling, upland limestone plateau characterised by nucleated limestone villages, dry stone wall, pastoral land-use and open and expansive views. It identifies that *"low drystone walls which are valuable in connecting the built form with the wider landscape which is characterised by stone wall field boundaries."*

The guidance notes that the 'Plateau Pastures' LCA includes the following common characteristics:

- Fields enclosed by a regular pattern of dry stone walls constructed from rough rubble, with some isolated field barns
- Rough rubble limestone walls with detailing limited to dressed gritstone lintels and sills

The guidance makes clear that *"the impact of hardstanding and other surfaces should be considered, including the colour, brightness, reflectivity of the surface, and how it would appear in the landscape from a distance."*

Paragraph 187 of the NPPF states that decisions should contribute to and enhance the natural and local environment by (amongst other things) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).

Paragraph 189 of the NPPF goes on to state that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

The development amounts to the creation of a lengthy access track constructed from crushed limestone and includes the removal of some sections of dry stone walling, some of which has been used to construct the access track, as per photographs contained within the consultation response from the PDNP. It is anticipated that a section of wall totalling some 850m has been removed.

The entirety of the site is located within the immediate setting of the PDNP with the most northerly section nearest to 'The Ditch' being located within the National Park. As such, should any harm to the landscape within or within the setting of this landscape designation be identified, this is to be attributed great (significant) weight in the planning balance.

Notwithstanding the argument presented by the applicant with regards to the justification and appropriateness of introducing this extensive and widened track, it is clear that the unauthorised works have resulted in a significant negative change to the immediate and (given its elevated location) wider rural landscape as shown by the indicative images contained within the PDNP response showing where the track would be visible from within the National Park, based on topography.

The track amounts to an intrusive feature that has been poorly designed and is of a scale and width that bears no justification for its occasional agricultural use. The significant extent of limestone wall removal results in direct adverse harm to a key characteristic of the Plateau Pastures LCA.

For the above reasons, it is considered that owing to the siting, scale and choice of materials used in the construction of the track, its prominence in an elevated location when viewed from within the Peak District National Park, and the significant loss of dry stone walling, the development is considered to be in direct conflict with LP Policies S1, EQ2, E3 and EQ6, the Landscape Character Assessment SPD, and relevant paragraphs contained under Chapter 15 of the NPPF.

Ecology

The Environment Act (2021) came into force in the spring of 2024 and places a legal requirement on all developments to provide a 10% uplift in Biodiversity Net Gain (BNG) unless they fall within a list indicating a limited number of exceptions.

LP Policy EQ5 requires all new development proposals to demonstrate that any protected species and habitats within the site will not be adversely affected and seeks to promote a net gain in biodiversity by securing appropriate mitigation and ecological enhancements where appropriate.

Paragraph 187 of the NPPF states that decisions should contribute to and enhance the natural and local environment by (amongst other things) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs.

Owing to the fact that the application is retrospective, there is no mandatory legal requirement to provide a 10% uplift in BNG. Nevertheless, local and national planning policies still support and encourage biodiversity enhancement.

A BNG Report (Estrada Ecology, August 2024) has been submitted with the application which has been reviewed by both Derbyshire Wildlife Trust and the PDNP Ecology Team. There is a disagreement with regards the habitat value

attributed to the baseline grassland that was in situ prior to the track being introduced. The applicant has therefore been asked to update the assessment to take this into account, in addition to further scrub loss identified by PDNP. Whilst 10% BNG is not required in relation to this application, it is nevertheless objectively the case that the introduction of this access track has resulted in significant loss of habitat which has not been adequately mitigated.

In addition to the above, the application is not supported by any Ecological Appraisal that assesses protected species receptors. Given that DWT's Biological Records Database notes numerous receptors in proximity to the track, including a Local Wildlife Site, the absence of such an appraisal means that the Local Planning Authority are not able to fully assess the potential harm to ecological assets and protected species.

Comments from DWT go on to highlight that whilst it is not possible to fully assess the harm to protected species given the retrospective nature of the proposals, it is conclusive that the losses of stone walls is detrimental to the dispersal of reptiles and amphibians throughout the landscape.

In light of the above, the Council contend that the application has failed to adequately assess the baseline habitat value of the land prior to development, potential impacts of the scheme on protected species and habitat, and does not present any satisfactory mitigation. As such, the application is in direct conflict with LP Policy EQ5, and relevant paragraphs under Chapter 15 of the NPPF.

Heritage

LP Policy EQ7 has regard to the Built and Historic Environment. It states that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment.

Chapter 16 of the NPPF contains the relevant national planning policies regarding the conservation and enhancement of the historic environment. Paragraph 207 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 216 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in

determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Comments received from the County Archaeologist confirms that the route of the access track crosses the presumed line of a Roman Road from Derby to Carsington, close to the edge of a 19th century limekiln and associated workings, and a possible prehistoric barrow, all of which are registered Historic Environment Records.

Whilst the above are non-designated heritage assets, the archaeological remains are nevertheless a heritage asset. Officers are duty bound to consider any harm that results from the development, irrespective of whether the works are retrospective.

Further to initial comments made by the County Archaeologist that identified the absence of any assessment, the applicant has submitted a Heritage Impact Assessment, prepared by Archaeological Research Serviced Ltd, dated November 2024.

The assessment identifies “Moderate to Large Adverse” impact on the Roman Road. Latest comments from the County Archaeologist notes that these impacts have probably already occurred given the retrospective nature of the application and has provided recommendations in both instances should Officers be minded to either approve or refuse the application. He also notes that archaeological investigation would be required in the form of an evaluation trench in order to identify the level of impact. This has not been done. The County Archaeologist also makes clear however that in any event, any impacts should have been tested and recorded as outlined in the desk based assessment submitted by the applicant.

It is clear that harm has occurred to the significance of the Roman Road HER as a direct consequence of this unauthorised development and this cannot be diluted or simply ‘glossed over’ because it has already happened. Owing to the level of harm that has occurred to matters of archaeological interest as identified by the Heritage Impact Assessment it is considered that the application is in conflict with LP Policy EQ7 and relevant paragraphs under Chapter 16 of the NPPF.

Highway Safety

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network and provides suitable off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan.

Paragraph 115 of the NPPF states that in assessing sites for specific applications, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 116 goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact impacts on the road network would be severe.

The new track benefits from access to the public highway at each end, onto Upper Blindlow Lane, Flagg and 'The Ditch', Chelmorton respectively. As set out in the highway officer comments, adequate visibility splays are provided and therefore the development would not give rise to any unacceptable highway safety. In light of comments received by the County Highways Authority, the application is considered to be in accordance with LP Policy CF6 and relevant paragraphs under Chapter 9 of the NPPF.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination

The application seeks retrospective planning permission for a lengthy 'agricultural' access track spanning almost 1.5km, beyond which the remaining track lies within the Peak District National Park and all of the track being situated within its setting. The proposal includes the removal of a significant amount of traditional dry stone walling, some of which has been used to construct the track.

The application fails to demonstrate how the agricultural land is associated with an existing agricultural enterprise, the nature of such an enterprise, and why the track is needed to sustain that enterprise. Officers conclude the application fails to demonstrate compliance with LP Policy EQ3, and as such is not supported as a matter of principle.

Moreover, as per detailed comments provided by PDNP and as set out within this report, the introduction of this track with regards to its length, siting and appearance, and the removal of large sections of dry stone walling have been found to have a significant adverse impact on both the immediate and wider Plateau Pastures LCA,

and also the setting of the PDNP, which attributes significant weight in the overall planning balance. The application has been found to be contrary to LP Policies S1, EQ2, EQ3 and EQ6 and relevant paragraphs contained under Chapter 15 in this regard.

The application has been found to be lacking with regards to any assessment of the potential impacts of the proposal upon protected habitats and species, including any suitable and satisfactory mitigation. In the absence of such information and objections received from both Derbyshire Wildlife Trust and the PDNP Ecology Team, Officers conclude that the application is in conflict with LP Policy EQ5 and relevant paragraphs under Chapter 15 of the NPPF.

The Heritage Impact Assessment identifies “Moderate to Large Adverse” impacts on the Roman Road Historic Environment Record. Whilst this is a non-designated heritage asset, it is concluded that owing the degree of harm to this asset as a consequence of the development and the failure to test and record the impacts arising from the development, the application is in conflict with LP Policy EQ7 and relevant paragraphs under Chapter 16 of the NPPF.

For the reasons above, the application is found to result in an unsustainable form of development contrary to LP Policy S1a and paragraph 11 of the NPPF and is therefore recommended for refusal.

OFFICER RECOMMENDATION: Refuse

Case Officer: James Stannard

Recommendation Date: 3rd April 2025

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council