

North York Moors National Park Authority

Planning Committee

27 November 2025

Private Item 12, Delegated Authority for Enforcement Action at Stape Ponds (Reference NYM/0002/2023)

This report contains exempt information of the description in paragraphs 1, 2, 6 & 7, Schedule 12A to the Local Government Act 1972.

1. Purpose of the report

- 1.1 To authorise the issue of a Breach of Condition Enforcement Notice and any further legal or other action as required to secure compliance with conditions 2 and 3 attached to planning permission granted on 20 November 2020 under reference NYM/2020/0739/FL for “Retention of 6 no. drainage ponds.”

2. Background

- 2.1 Following on from an enforcement investigation, planning permission was granted on 20 November 2020 for the retention of six agricultural drainage ponds. The ponds were created on farmland in and around the applicant’s farm holding at Stape. The ponds vary in size from 207sqm to 480sqm. In brief, the supporting information stated that: the ponds were required for improving land drainage and providing a water supply as climate change has led to periods of excessive rain and lack of rain and agricultural management was required to improve the land for the landowners 500 sheep. At that time, officers were advised that there may have been an alternative motive for shooting as well as agricultural use, and conditions were imposed on the permission .
- 2.2 Condition 2 required that the ponds were not to be stocked with fish, nor was supplemental feeding with grain to be used to attract ducks for commercial shooting. Condition 3 required that the ponds were not to be used other than as drainage ponds and as a water supply for livestock grazing the fields and that the ponds were not to be used for any commercial purpose, including any sporting or shooting activities.
- 2.3 The conditions were not challenged at the time the permission was issued.
- 2.4 Initial complaints in 2021 advised that ducks had been delivered to the High Muffles Pond. A site visit on 16 November 2021 confirmed their presence. The landowner denied bringing ducks onto the land. No supplemental feed was observed. The landowner admitted operating a small-scale pheasant shooting operation but said that this business did not use the ponds. Social media advertising of the shooting opportunities was taken down.

- 2.5 A site visit on 26 September 2022 observed supplemental grain in piles next to one or more of the ponds. The landowner said that this was discarded livestock feed.
- 2.6 Two site visits on 24 February 2023 and 3 March 2023 (outside the wildfowl shooting season) observed no evidence of feed or ducks.
- 2.7 Further complaints of ducks and feed being delivered to one or more of the ponds were received in August 2023. A site visit on 22 August 2023 noted around 80 ducks at ponds D and F and a duck feeder at each pond.
- 2.8 Authority for enforcement action was issued on 4 September 2023.
- 2.9 Following a further site visit, at which there appeared to be no ducks on the ponds, enforcement action was put into abeyance.
- 2.10 A Planning Contravention Notice was sent to the landowner on 13 September 2023 and a response received from the landowner's agent on 20 September 2023. The landowner claimed that all feeders were for pheasants, were not related to ducks or the ponds and stated that no ducks had been brought to the ponds. A further Planning Contravention Notice sent on 22 December 2023 was not substantively responded to.
- 2.11 At a site visit on 11 October 2024, officers observed young ducks appeared to have been placed on the Peat Road Pond.
- 2.12 A Breach of Condition Notice was authorised and served on 1 October 2024. Following legal advice, the Notice related to the Peat Road Pond only.
- 2.13 Subsequently, a complainant noted the presence of 400 ducks and two large feed bins at the High Muffles Pond.
- 2.14 On 3 September 2025, an officer visited the High Muffles pond site and noted that a large number of young ducks appeared to have been released together with a feed bin and a number of shooting post markers were in position in the adjacent field. Ducks are not shot on the ground; they are forced into the air and shot in the air after taking off from the pond. The nature of the shooting industry for birds is that there are rarely enough natural birds to shoot on any particular 'shooting day', they are reared and released and encouraged to stay by feeding until the shooting day, when they can then be forced to fly at the optimal time for shooting by participants. Photos are below.



- 2.15 From the evidence of that visit, the legal test to serve Notice of ‘does it appear that there has been a breach of planning’ had been met.
- 2.16 In October complaints were received by the Authority from a resident who observed the refilling of feed bins at High Muffles Pond.
- 2.17 Further complaints were received from a local resident in early November of pheasant shooting at the premises. The resident observed beaters forcing ducks off the pond at High Muffles.

3. Policy and legislation

- 3.1 Strategic Policy A, Strategic policy J, Strategic policy H, ENV 2 and ENV 7 are relevant.
- 3.2 Under Section 172 of the Town and Country Planning Act 1990, the Authority may issue an Enforcement Notice where it appears to the Authority that there is a breach of planning control and that it is expedient to issue a Notice. Under Section 171A(1)(b), the failure to comply with a condition or limitation of a permission is a breach of planning control.

4. Breach assessment

- 4.1 Site visits have established that duck feed and feeders have been placed around the ponds on several occasions. Site visits have also observed young ducks, considered too young to fly, around the ponds, suggesting that they have been imported for sport shooting.
- 4.2 The landowner has previously said that these are pheasant feeders, denied that the feed is placed for the purposes of commercial shooting on the permission land, denied that any ducks have been brought to the pond and denied that the ponds are used in connection with the shooting business. The landowner has, however, failed to provide any convincing explanation for the presence of ducks, duck feed, or duck feeders.
- 4.3 Accordingly, members’ authorisation to serve a Breach of Condition type Enforcement Notice (on the other five ponds covered by the original permission) is sought as it appears that young ducks have been released and fed in order to

shoot them, the landowners have previously advised that the ducks are shot by friends and business colleagues in a barter arrangement, thus not constituting commercial shooting. A Notice may be issued where it appears that there has been a breach. Despite the landowner's responses, the Authority believes that this threshold is met. A right of appeal exists should the landowner wish to challenge the breach.

5. Expediency

- 5.1 Approval was granted subject to conditions in order to ensure the ponds are retained for their intended use for land drainage and as a water supply for livestock to assist the biodiversity of the area and to protect the amenity of the occupiers of nearby residential properties, in accordance with Local Plan Strategic Policy A, Strategic Policy H and Policy ENV7. While not reasons for the condition, Strategic Policy J and Policy ENV2 are also relevant.
- 5.2 Strategic Policy A supports only development which is sustainable, which conserves and enhances the natural beauty, wildlife, and cultural heritage of the National Park. Strategic Policy H states that all development and activities will be expected to maximise opportunities to strengthen the integrity and resilience of habitats and species within the National Park and provide a net gain in biodiversity; including those species for which the National Park supports a significant proportion of the regional or national populations and those found at the edge of their range. Examples would include nightjar, honey buzzard, goshawk, and turtle dove. Maintaining and enhancing habitats, wildlife and geological assets is central to the National Park's first purpose.
- 5.3 Strategic Policy J concludes that tourism and recreation development will only be supported where it does not lead to unacceptable harm to the local landscape character or an ecological or archaeological asset and it does not lead to unacceptable harm in terms of noise and activity to the immediate neighbourhood.
- 5.4 Policy ENV2 requires tranquillity in the National Park to be maintained and enhanced. Development proposals will only be permitted where there is no unacceptable impact on the tranquillity of the surrounding area. Noise and activity levels are specifically mentioned as a factor to consider. Policy ENV7 requires that development will only be permitted where it does not generate unacceptable levels of noise.
- 5.5 The deposit of duck feed, some in duck feeders, facilitates the use of the ponds as part of a commercial shooting enterprise. The use of the ponds to support a commercial shooting enterprise is harmful to the tranquillity of the National Park and the amenity of neighbouring properties by reason of the noise and disturbance associated with the shooting and the comings and goings of its participants. This is contrary to Policy ENV2 and Strategic Policy J.

- 5.6 It is also potentially harmful to the integrity and resilience of the natural habitat, in particular the goshawk population, which is a protected species year round. This is contrary to Strategic Policies A and H.
- 5.7 It is therefore considered expedient to issue a Breach of Condition Enforcement Notice, though Members views on this are requested.

6. Immunity

- 6.1 Section 171B(3) provides that no enforcement action can be taken against a breach of planning condition after the end of the period of ten years from the date on which the breach first occurred. As the permission was granted in 2020, the breach is not immune from enforcement action.

7. Contribution to Management Plan objectives

- 7.1 Upholding the Authority's planning role meets key Management Plan Outcomes including a nature rich, more biodiverse landscape.

8. Resource implications

- 8.1 The resource and legal implications depend on the response of the recipients of the Enforcement Notice. Potentially an appeal could be brought, leading to a public inquiry; if the Notice is then upheld (or not appealed) but subsequently not complied with then the Authority may become engaged in legal proceedings and/or in taking steps to directly secure compliance with the requirements of the Notice.

9. Human Rights

- 9.1 This decision must comply with the requirements of the Human Rights Act 1998 (HRA) which gives effect in England and Wales to the provisions of the European Convention on Human Rights (ECHR). Planning Practice Guidance provides that these rights are relevant when considering enforcement action.
- 9.2 Articles 8 and 14 of the ECHR (right to respect for private and family life and the prohibition of discrimination), and Article 1 of the First Protocol to the ECHR (protection of property) are relevant.
- 9.3 The ECHR rights conferred by HRA are qualified and there are circumstances when interference with them is justified. All interference must be proportionate.
- 9.4 Planning permission was granted subject to restrictions on the use which could be made of the sites and the activities which could take place on the sites, restrictions which were imposed by condition. Without these conditions, there is no permission. There is therefore a clear public interest in enforcing these conditions and, more generally, upholding planning law and planning regulation. The planning impact of the breach of conditions is set out above, and it is considered appropriate and proportionate to protect the public interest from that impact by taking planning enforcement action.

9.5 While the action that is recommended in this report will deprive the owner of the site of part of his business and property rights, those rights had already been restricted by condition and such action is taken in the general interest.

10. Public Sector Equality Duty

10.1 The Authority and its decision makers must also have regard to the Public Sector Equalities Duty (PSED) under Section 149 Equalities Act 2010. The duty is to have due regard (in discharging their functions) to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

10.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

10.3 The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in Section 149. The level of consideration required (i.e., due regard) will vary with the decision including such factors as:

- a) The importance of the decision and the severity of the impact on the Authority's ability to meet its PSED.
- b) The likelihood of discriminatory effect or that it could eliminate existing discrimination.

10.4 The Authority should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic, and this impact may be unintentional.

In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.

10.5 Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Authority is also entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.

10.6 The PSED has been considered in this case. No protected characteristics have been identified. Although persons with protected characteristics might yet be affected by the enforcement action, either as an owner or occupier or person with an interest in the property, it is not anticipated that persons with any of the protected characteristics require additional assistance outside of what other persons without protected characteristics may have access to. The right to challenge the Breach of Condition Enforcement Notice applies universally.

11. Provisions of the proposed Notice

11.1 The land

Ponds at land Southwest of Lodge Farm, Stape Road, land Southwest of Taylor Hill Farm, Stape Road, and land Northwest of High Muffles, Rutmoor Road, Stape as identified on the attached plan at Appendix 1.

11.2 Alleged breach

Failure to comply with conditions 2 and 3 of planning permission (ref. NYM/2020/0739/FL) granted on 20 November 2020.

Condition 2 requires:

“The drainage ponds hereby approved shall not be stocked with fish nor shall supplemental feeding with grain be used to attract ducks for commercial shooting.”

Condition 3 requires:

“The ponds hereby permitted shall not be used other than as drainage ponds and as a water supply for livestock grazing the fields and shall not be used for any commercial purpose, including any sporting or shooting activities.

11.3 Reasons for issuing the Notice

1. The alleged breach of planning control has occurred within the last 10 years.
2. The failure to comply with conditions 2 and 3 facilitates the use of the ponds as part of a commercial shooting enterprise. The use of the ponds to support a commercial shooting enterprise is harmful to the tranquillity of the National Park and the amenity of neighbouring properties by reason of the noise and disturbance associated with the shooting and the comings and goings of its participants. This is contrary to Policy ENV2 and Strategic Policy J. It is also potentially harmful to the integrity and resilience of the natural habitat, in particular the goshawk population, which is a protected species year-round. This is contrary to Strategic Policies A and H.
3. The Authority considers it is expedient to serve the Notice.
4. The purpose of issuing the Notice is to remedy the breach of planning control and the Authority considers that there are no steps short of those required by the Authority which would achieve that purpose.

11.4 **Steps of the Notice**

Ensure compliance with Conditions 2 and 3 of planning permission NYM/2020/0739FL by:

- a) Ceasing putting down grain on the Land (on the ground or in feeders) to attract ducks for commercial shooting.
- b) Removing from the Land any such grain.
- c) Ceasing using the Land for any commercial purpose, including any sporting, or shooting activities

11.5 **Compliance period**

30 days from the effective date of the Notice. This is considered both appropriate and sufficient time to enable remedy of the breach.

11.6 **Persons on whom the Notice is to be served**

The Owner, Flamborough Rigg, Stape, Pickering, N Yorkshire YO18 8HR

The Occupier, Flamborough Rigg, Stape, Pickering, N Yorkshire YO18 8HR

Keith Terence Eddon, Flamborough Rigg, Stape, Pickering, N Yorkshire YO18 8HR

Karen Eddon, Flamborough Rigg, Stape, Pickering, N Yorkshire YO18 8HR

Keith Eddon, High Farm, Flamborough Rigg, Stape, Pickering, N Yorkshire YO18 8HR

12. Financial and staffing implications

- 12.1 Formal legal action will require funding, and this will be met under existing Authority legal budgets.

13. Legal and sustainability implications

- 13.1 Formal legal action will be required under the Authority's Town and Country Planning powers.

14 Recommendation

- 14.1 That Members authorise that a Breach of Condition Enforcement Notice be issued in the terms above and any further action to enforce such Notice be taken.

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Background documents to this report Conservation Area Appraisals:

Appendix 1 -Red and blue line plan

