

ANNEX 1

Peak District National Park Authority Complaints 2006 - 2007

ID: 114

Details: Complaint to Ombudsman regarding failure of Authority to take effective action to prevent breaches of planning control at a wildlife park near the Complainant's home, and exacerbated the problem by selling land to the operator.

The Ombudsman's investigation found that the Authority's officers had failed to carry out regular monitoring of the site when permission to change its use was first granted despite providing a written assurance to the previous Ombudsman about this. The fact that the proprietor sought to discuss with the Authority in 1995 the construction of an overflow car park should have alerted it to the possibility that the restriction it had placed upon numbers attending the Centre was being breached. The Ombudsman considered that even so enforcement action may not have been justified before late 1999, and by September 2001 the Authority had resolved to take action. It took more than four years for the Authority to resolve the matter, which it did by issuing a new planning permission. The Ombudsman said this was "too long by any reasonable measure" and found the delay was maladministration causing injustice to the Complainant because of the period of prolonged uncertainty that the Complainant has endured.

Ombudsman's Decision: Maladministration and injustice (report). The Ombudsman recommended a payment of £750 to be made to the Complainant to remedy his injustice and a report to the Ombudsman within three months on how the Authority will monitor the conditions in future.

Lessons Learnt: We have noted the following changes needed:

- Monitoring conditions on any planning application approved – with existing resources it is not possible to monitor all conditions on every planning permission. We are looking at using technology to highlight certain key conditions for monitoring. The intention is that these would be flagged up by the caseworker when the decision notice is drafted. This should allow us to prioritise conditions monitoring.
- Making connections with the history of a site – staff will be reminded that when they carry out site visits or have meetings with people about proposed developments the history file should be checked and any apparent enforcement issues should be passed on in writing to the Enforcement and Monitoring Team for further investigation.
- Record keeping on telephone calls received – since the introduction of the MVM (Planning System) all telephone complaints that are received within the Team are recorded. If people outside the Team received calls they should be recorded and passed on in writing. All staff to be reminded of this.

- Shortening time to resolve legal issues – in retrospect it is felt that the Authority was trying to be too helpful in this case by allowing submission of further evidence towards the lawful use application. Therefore following a review of the process for considering Lawful Use applications it has been decided that the Authority will be more rigorous in the future in applying deadlines for applicants to make their submissions so that the 8-week statutory target for determining such applications can be met in most cases, although the application in this case would have taken longer than 8 weeks because of the legal complexities.
-

ID: 124

Details: Complaint to Ombudsman stating that there have been failings in the manner in which the Authority dealt with an application for development to the property next to the Complainant's home. In particular that the Authority has been inconsistent in terms of decisions made in broadly similar applications.

Lessons Learnt: Case still on going at 31 March 2007.

ID: 130

Details: Stage One Complaint about the manner in which planning application was presented to the Planning Committee.

Subsequent Stage Two Complaint concerning advice given and advice reported at Committee meeting regarding '87m' rule, lack of graphic evidence at Committee meeting and treatment of Complainant.

Lessons Learnt: Responses made to issues raised in both complaints – no further action required.

ID: 131

Details: The Authority did not make it clear that the Complainant needed planning approval when the Planning Officer advised them to make a Dept of Transport application to increase the number of vehicles at their operating centre.

Lessons Learnt: Response made to issues raised in complaint and have noted the following changes needed:

- Need to ensure there is a written record of an instruction that planning permission is required.
 - Need to monitor responses to correspondence.
-

ID: 132

Details: Complaint to Ombudsman regarding inappropriate placing of site notice. No notification of adjoining owners to application site. Failure of officers to respond to points raised in previous correspondence.

Ombudsman found Maladministration by the Authority's Officers on 6 accounts:

1. Failure by the case officer to keep site visit notes
2. Failure by the case officer to check her understanding of the effect of the development on the complainant's property
3. Failure by the case officer to include any mention of neighbouring properties in the delegated report
4. Failure by the delegated officer (the team manager) to properly scrutinise the application before granting permission
5. Failure by the officer who signed the decision notice to properly scrutinise the application.
6. Failure by the case officer to properly record Details of discussions with the applicant about alterations to the development after approval had been given.

Ombudsman Decision: Local Settlement (Planning Category).

Lessons Learnt: We have noted the following changes:

- Case officers must make site notes on every site visit, recording factors that are essential to proper consideration of an application. Site notes must include reference to assessment of neighbouring property issues. If appropriate, and particularly to help the line manager who will scrutinise the case file and report, the photographs taken on site must show the relationship of the proposed development to neighbouring properties.
- Delegated reports must always refer to the impact of proposed development on neighbouring properties and ensure that the consideration of that impact is recorded.
- Any amendments agreed with applicants should be recorded in case notes and if necessary in writing with applicants. In considering amendments the case officer must ensure assessment is made and recorded of whether these could have a new impact on neighbouring properties.
- The line manager who acts as delegated officer to approve reports must check that the report covers all issues relevant to the case determination, including neighbouring property issues.
- In addition to the above, procedures for signing of decision notices will be reviewed.
- The Head of Service will review casework practices and ensure that a written practice note is sent to all service staff.

ID: 133

Details: Complaint regarding comment made by an Authority Member during consideration of a planning application made by the Complainant's daughter at a Planning Committee meeting.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 134

Details: Complaint about the title given to the report on the complainant's planning application for the Planning Committee and manner in which application was presented.

- **Lessons Learnt:** Response made to issues raised in complaint – no further action required.

ID: 135

Details: Complaint alleging poor, inconsistent pre-application advice and advice during an application given by Planning Officers.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 136

Details: Complaint regarding manner in which Complainant's planning application was dealt with.

Lessons Learnt: Response made to issues raised in complaint – no further action requires.

ID: 137

Details: Stage One complaint made direct to Authority regarding handling of Complainant's planning application:

Subsequent complaint made to the Ombudsman stating that the Planning Department's report to the Planning Committee was inaccurate, late, misleading, unfair and undemocratic.

The Ombudsman's investigation found that the Local Government Act 1974 says that the Ombudsman shall not investigate a complaint if a right to appeal to a government minister has been used. The complainant has confirmed that they have appealed against the Authority's decision to refuse planning permission and to which this complaint relates. Therefore the Ombudsman has no jurisdiction to investigate the complaint. The Ombudsman notes the Complainant's concerns about the Officer report and will draw them to the attention of the Authority, however the advice received from a planning expert in the Ombudsman's office is that the officer assessment does not effectively misrepresent the situation.

Ombudsman's decision: Outside Jurisdiction.

Lessons Learnt: Stage One Complaint – Response made to issues raised in complaint, no further action required.

ID: 139

Details: Complaint to Ombudsman stating that the Authority has failed unreasonably to investigate and reach a decision on the Complainant's concerns that a property in the village is being used for business purposes without the necessary planning permission. And that the business vehicles visiting the property are causing severe congestion and disturbance.

The Ombudsman decided to discontinue investigation of the complaint. However the Ombudsman stated that there was fault by the Authority including delay in the enforcement investigation promoted by the Complainant and failure to keep the Complainant informed as indicated in the Authority's policy statement. The Ombudsman recommended that the Authority sends a written apology direct to the Complainant, with a copy to the Ombudsman. The Ombudsman also recommended that, for the future, acknowledgement letters sent by the Planning Department should make clear the Authority's policy, which is to notify Complainants of significant action on enforcement matters but that other updates will only be provided on request.

Ombudsman's Decision: Ombudsman's discretion.

Lessons Learnt: We have noted the following change:

- The acknowledgement letter sent to enforcement complainants will be changed, as the Ombudsman suggested, to make clear that it is the Authority's practice to notify complainants of significant action on enforcement matters but that other updates will only be provided on request.

ID: 140

Details: Stage One Complaint regarding handling of a development at Chelmorton and the lifting of condition 14. The complaint refers to supply of misleading information, being inconsistent in decisions and acting contrary to policies, failure to protect the Complainant's privacy and failure to consult.

Complaint to Ombudsman stating that the Authority unreasonably failed to have appropriate regard to the impact on the Complainant's amenity when approving an application for planning permission at a neighbouring property; and has unreasonably failed to give appropriate consideration to taking enforcement action against breaches of planning control.

Lessons Learnt: Stage One Complaint - Response made to issues raised in complaint and the following action noted:

- Accept some of the features on approved plans have not been completed therefore as part of the recent approval a time limit will be placed on the Decision Notice by condition to ensure they are completed in order to protect the Complainant's privacy. A copy of the decision notice will be sent to the Complainant.

Ombudsman Complaint: Case still on going at 31 March 2007.

ID: 141

Details: Complaint regarding conduct of 2 officers, one Planning and one Cultural Heritage, at a meeting to discuss and review the Complainant's planning application which had been refused. This meeting was being held following a previous meeting with just the Planning officer.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 142

Details: Complainant had ridden length of the trail the On 26 June 2006 but was disappointed that at 4.00pm the refreshment shop was shut and no drinks machine was available, despite seeing the refreshments board at Parsley Hay.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 143

Details: Stage One Complaint that site owners of a local wildlife park are not abiding by planning restrictions to only allow two coaches in the car park at any one time. Complainant very disappointed that the Ombudsman decision regarding a previous complaint doesn't seem to have made any difference to the operations on the ground.

Stage Two Complaint again regarding vehicle restrictions, numbers of visitors and misinterpretations of Committee decisions

Lessons Learnt: Stage One Complaint - Response made to issues raised in complaint, no further action required.

Stage Two Complaint - Response made to issues raised in complaint, no further action required.

ID: 144

Details: Stage One Complaint requesting explanation why no enforcement action being taken against a District Council regarding their non-compliance with planning permission conditions for a site at Hulme End.

Subsequent complaint submitted to the Ombudsman regarding the Authority not taking planning enforcement action to remedy unauthorised development by a District Council close to the Complainant's home, with particular concern that a Stop Notice has not been served.

The Ombudsman's investigation found that the Authority was entitled to pursue the course most appropriate and its initial actions do not appear contrary to planning guidance. The development was not harmful to public safety or amenity therefore reasonable not to serve a Stop Notice, therefore no strong evidence of fault in the administrative approach. The Authority has confirmed that no application has been received yet and if not will consider enforcement action therefore difficult to conclude that the Complainant has been seriously disadvantaged by the Authority's actions at this early stage. If no significant progress within 6

months the complainant can complain to the Ombudsman again. At this stage there is no sufficient evidence of maladministration.

Ombudsman Decision: No or insufficient evidence of maladministration (without report).

Lessons Learnt: Response made to issues raised in Stage One complaint – no further action required.

ID: 145

Details: Complaint about the management and handling of the Complainant's recent planning application by a planning officer.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 146

Details: Complaint about the lack of response to letters and telephone calls from Complainant regarding an intrusive banner/placard stood in a field next to a busy road.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 147

Details: Complaint about lack of information and confusing information given in the PDNPA Ranger Guided Walks booklet.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID: 148

Details: Complaint about the length of time that it is taking to deal with the Complainant's planning application, causing severe personal problems.

Lessons Learnt: Response made to issues raised in complaint.

- Need to monitor workloads to ensure delays caused by volume of work are minimised
-

ID: 149

Details: Complaint about rude behaviour of a member of Cycle Hire staff at Parsley Hay towards Complainant.

Lessons Learnt: Response made to issues raised in complaint.

- Behavioural issues to be incorporated into future staff training.
-

ID: 150

Details: Stage Two Complaint regarding very unsatisfactory conduct by some Officers and a Member in relation to a planning application submitted by the Complainant.

Subsequent Complaint to the Ombudsman regarding manner in which the Authority has dealt with planning matters relating to the Complainant's property.

Ombudsman's investigation found two matters that might claim injustice arising out of any alleged failure on the Council's part: first the Council's decision to refuse planning application for an extension and a certificate of lawful use, second is threat of enforcement action. However Complainant has right of appeal to Planning Inspectorate and is the appropriate means of dealing with a decision complainant considers to be unreasonable and based on incorrect or inadequate information. The other matters referred to are not issues that the Ombudsman would propose to investigate independently of the substantive issue at the centre of the complaint.

Ombudsman Decision: Ombudsman Not Investigating, recorded as Planning: Outside Jurisdiction.

Lessons Learnt: Stage Two Complaint - Response made to issues raised in complaint – no further action required.

ID: 151

Details: Stage One Complaint about a planning application granted stating planning procedure not adhered to, Parish Council not given an opportunity to comment and local residents unaware application had been made.

Stage Two Complaint – same complaint as above with request for referral to Director.

Lessons Learnt: Stage One Complaint - Response made to issues raised in complaint and the following noted:

- Need to check relevant parishes consulted on planning applications.

Stage Two Complaint – Response made to issues raised in complaint and the following noted:

- Electronic and paper records to be amended in relation to the planning application referred to regarding relevant parishes. Staff reminded of need to check records closely.
 - Issue regarding parish boundary and local needs allowance and housing survey raised with Policy Team.
-

ID: 152

Details: Stage One Complaint regarding lack of response to letter from a Parish Council and the manner in which a planning application was dealt with.

Stage Two complaint submitted regarding further concerns over manner in which a planning application was dealt and Authority's statement that previous correspondence regarding the matter was not received.

Lessons Learnt: Stage One Complaint - Response made to issues raised in complaint, no further action required.

Stage Two Complaint - Response made to issues raised in complaint and the following noted:

- Need to ensure all requests to speak at Committees are passed to Democratic Services when received. Staff to be reminded of necessary action.
- Need to ensure that relevant letters to Chief Executive and Chief Executive's responses are copied to relevant P file.

ID: 153

Details: Complaint regarding a Ranger asking Complainant to put his dog on the lead, when there was no apparent reason why his dog should have been on the lead. Also complaint about lack of response to complaint.

Lessons Learnt: Response made to issues raised in complaint, no further action required.

ID: 154

Details: Complaint regarding a mail shot sent out by the Authority about a public meeting regarding Backdale and Wagers Flat, Longstone Edge and included leaflets from Save Longstone Edge Group (SLEG). Concern over alliance with SLEG.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Ensure that it is made clear at the public meeting that the Authority does not endorse SLEG's literature.

ID: 155

Details: Complaint regarding a mail shot sent out by the Authority about a public meeting regarding Backdale and Wagers Flat, Longstone Edge and included leaflets from Save Longstone Edge Group (SLEG). Concern over alliance with SLEG.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Ensure that it is made clear at the public meeting that the Authority does not endorse SLEG's literature.

ID: 156

Details: Complaint on behalf of a Parish Council regarding consultation of wrong parish council on a planning application.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Development Control Administrative staff reminded of the need to consult all Parish Councils when an application straddles a boundary.
-

ID: 157

Details: Complaint from a Parish Council regarding their dissatisfaction with the level of service provided by the Authority in regard to the issue of an unauthorised development which the Parish Council notified the Authority of.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Progress on dealing with enforcement queries needs to be monitored and progress report issued when delay occurs.
-

ID: 158

Details: Complainant regarding non-compliance of conditions of a planning permission relating to a site at Hulme End.

Lessons Learnt: Response made to issues raised in complaint – no further action required.

ID:159

Details: Complaint regarding length of time taken to process the Complainant's planning application.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Need to keep Applicant informed of delays in planning applications.
-

ID: 160

Details: Complaint about 3 planning developments in Winster that the Complainant thinks are counter to a number of the Authority's basic guidelines and policies. Also complaint about lack of response to previous letters.

Lessons Learnt: Response made to issues raised in complaint, no further action required.

ID: 161

Details: Complaint regarding length of time taken to deal with an enforcement matter. Complainant feels harassed.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Enforcement matter ongoing.
-

ID: 162

Details: Complaint regarding manner in which a planning application has been handled.

Lessons Learnt: Response made to issues raised in complaint and the following noted:

- Need to ensure that staff are vigilant in identifying letters which require a response.
 - Need to be vigilant that consultation/re-consultation documents go to the appropriate Parish.
-

ID: 163

Details: Complaint regarding lack of progress on a planning application.

Lessons Learnt: Response made to issues raised in complaint, no further action required.

ID: 164

Details: Stage One Complaint regarding manner in which Complainant's planning application was handled.

Stage Two Complaint raising further issues relating to Stage One complaint above.

Lessons Learnt: Stage One Complaint - Response made to issues raised in complaint, no further action required.

Stage Two Complaint - Response made to issues raised in complaint, no further action required.

ID: 165

Details: Stage One Complaint regarding manner in which Complainant's planning application was handled.

Stage Two Complaint regarding further issues relating to Stage One complaint above.

Lessons Learnt: Stage One Complaint - Response made to issues raised in complaint, no further action required.

Stage Two Complaint - Response made to issues raised in complaint and the following noted:

- Benefit of face to face meetings early in the complaint process - would have been better to have had meeting at start.
- Need to ensure at meetings that all participants are clear about what is being discussed/what is agreed.
- Need to remind officers that all key points need to be covered in representations.
- Need for file notes.
- Need to ensure Decision Notices are sent in time to arrive to applicant rather than after decision goes on web site for the public.