

Lazonby Neighbourhood Plan (Pre-Submission Draft June 2017) Response on behalf of the Brackenburgh Estate

22 August 2017

Our Ref: JL/PL.49
Your Ref:

Lazonby Neighbourhood Plan Steering Group
C/o Clerk to Lazonby Parish Council



Jennifer Longstaff



26 Coniscliffe Road
Darlington
DL3 7JX

Dear Sirs,

By email and post

Lazonby Neighbourhood Plan (Pre-Submission Draft June 2017) Response on behalf of the Brackenburgh Estate

We write to you on behalf of our clients, the Brackenburgh Estate, to comment on the Lazonby Neighbourhood Plan (Pre-Submission Draft June 2017). Whilst we commend the Parish Council on their initiative in undertaking this Neighbourhood Plan, it is essential that we voice our strong concern over certain elements proposed to be included within the Plan.

We have reviewed the document in detail and comment on behalf of the Brackenburgh Estate which is a significant landowner within the Neighbourhood Plan area.

Brackenburgh Estate is a privately owned Estate situated North of Penrith centred on Calthwaite in the M6/West Coast Railway corridor extending to over 4500 acres in the Parishes of Plumpton, Hesket and Lazonby. A considerable part of the Estate is East of the A6. 1811 acres are shown edged red on the attached plan of which 1292 acres or thereabouts are within Lazonby Parish edged blue.

The Estate has agricultural, sporting and mineral interests with the Lazonby Parish land together with a large Commercial Forestry area shaded green on the plan.

We note that one of the objectives for the Plan (Objective 5) is to extend the existing Footpaths and Cycle Networks within the Parish. It is here where our concern lies as many of the proposed new Footpaths are located on the Estate's land.

Our client is disappointed that consultations regarding the Proposed Footpaths on their land had not been discussed with them prior to the current consultation on the Pre-Submission Draft of the Neighbourhood Plan. We could have advised of the problems that would be created by designating private estate tracks into Public Rights of Way. Furthermore, as set out in Government Guidance (National Planning Policy Guidance) regarding Neighbourhood Plans, paragraph 015 states quite clearly that 'the parish council ... should work with other members of the community who are interested in, or affected by, the neighbourhood plan...', and furthermore at paragraph 048 that 'landowners should be involved in preparing a draft neighbourhood plan'.

Notwithstanding this, we welcome the opportunity to comment now and, we shall also be commenting on the Plan when it is submitted to Eden District Council for consultation (under Regulation 15) prior to it being passed to an Independent Examiner, should our representations not be taken into account at this stage.

As such, we would like to confirm at this stage that we strongly object to the proposals in respect of the proposed new Footpaths that are located on land within our clients' ownership. The reasons for this objection are set out below.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

Savills (UK) Limited. Chartered Surveyors. Regulated by RICS. A subsidiary of Savills plc. Registered in England No. 2605138.
Registered office: 33 Margaret Street, London, W1G 0JD.



Firstly, as existing, these are access tracks for the Estate which are used to manage the land. These tracks were originally created to reach the numerous quarry sites which are scattered across the area on the plan. These are, in many cases, extremely deep with vertical sides, hidden by the vegetation and in some cases with water in the bottom. On occasion, sheep and cattle have gone missing and are suspected to have fallen down the holes. The Health and Safety risks to the public are enormous and allowing access via the proposed Footpath networks shown has a huge potential Public Liability issue for the Estate. In making the proposals has the Steering Committee considered any sort of Risk Assessment for what is being proposed?

The access tracks are now used for the woods, farmland, quarry and sporting rights. Most gates confirm that the land is private and, in some cases, are padlocked for security reasons and to prevent fly-tipping. Redefining these access tracks as new Footpaths would have a seriously adverse impact on the Estates' various enterprises.

The land within the Brackenburgh Estate is farmed in-hand by the Brackenburgh Home Farm partnership and has for many years been in Higher Level Stewardship where work has been undertaken in close cooperation with Natural England. This is due to Lazonby Fell being identified as a Site of Special Scientific Interest (SSSI); an important area in Cumbria that includes good and increasingly rare examples of essentially lowland heathland and has been afforded protection.

Heathland used to be the predominant vegetation over much of the Eden Valley sandstone country in this part of north-east Cumbria, but most has now been converted to grassland or plantation woodland. In addition to the heath on Lazonby, bracken is dominant in places; there is one small area of 'valley' bog and pools have formed in some of the old quarry workings. As such, a significant proportion of the Brackenburgh Estate falls within the Lazonby Fell SSSI which was notified under Section 28 of the Wildlife and Countryside Act, 1981 and covers 149.3 hectares / 368.9 acres of land.

To assist with the land management, Crossbred Highland Cattle and Tamworth pigs (up to 100 in number), breeds used to the outdoor climate all year round, have been introduced and roam freely through the area with their purpose being to trample the bracken and encourage regrowth of native lowland heath species.

During the winter months much of the area is grazed by a flock of Herdwick sheep from Borrowdale. These are all important management tools to enhance the vegetation and the SSSI habitat. The introduction of what would be unrestricted public access via a footpath network or even a single footpath would prevent any of these management techniques from continuing. Sows with piglets at foot are as equally protective as cows and calves.

As set out by Natural England, operations likely to damage the special interest include the construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks. Formalising new Footpaths and increasing their usage throughout our clients' landholding could damage the SSSI.

Furthermore, Natural England states that access to this site, and any recreational activities within, may need to be controlled. This is to avoid damage to the heather by trampling and other negative impacts that may occur if open to the public. This national designation should be recognised throughout the Neighbourhood Plan. Has consultation been held with Natural England in respect of the proposed Footpaths within Lazonby Fell?

My clients are further concerned about the fire risk on the lowland heath which becomes tinder dry in the spring and summer on the heather, and also in the autumn when the bracken areas die back. Allowing public access would significantly increase this risk. There is a history of serious fires occurring on Lazonby Fell.

Additionally, the Footpaths would impede on the existing woodland operations. The Commercial Forestry operations comprise regular thinning contracts throughout the compartments involving large harvesters and forwarders. Work continues throughout the year due to the track network being available for access even in winter. The timber is a vital source of revenue to the Estate and interference with the income stream would have an impact across other aspects of the Estate. There would be a considerable danger to walkers in sharing these tracks when works are going on.



Moreover, the proposed footpaths would have an adverse impact on the sporting rights associated with the land. The area within Lazonby Parish is all let to a local syndicate who release pheasants during the late summer and have a number of days shooting through the season (October to 1st February). Public access would disturb both the birds in what is a perfectly legitimate country pursuit as well there being potential for members of the public to be accidentally injured. In addition, there is a limited amount of deer stalking principally to control numbers only and again this could a danger to others and therefore would have to stop.

In respect of Minerals, one of the proposed footpath routes is the sole access to Cragnook Quarry. Planning permission has existed for decades for the extraction of Lazonby Red Sandstone and is currently operated by Grants Ltd who took over the commercial lease from Blockstone of Chesterfield two years ago. The stone is drilled and blasted in large blocks which are then extracted onto HGVs exiting the site along the access road. Annual extraction is in excess of 1200 tonnes.

As such, based on the aforementioned reasons set out above, there would be significant Health and Safety risks to the public if the proposed new footpaths were to come forward, particularly as the Estate's land is largely unfenced in these areas. The introduction of formal footpaths would effectively result in people having free access on the land which is subject to the above operations. This would not be practical or safe in respect of the running of the Estate. Consequently, there would likely be a requirement to fence off any newly proposed public footpaths which is neither practicable nor appealing, especially in respect on the impact such fencing would have on the visual landscape area and the management of the SSSI and the running of the Estate.

We also note that the Pre-Submission Draft Neighbourhood Plan, at paragraph 6.1.5, states that the Lazonby Fell SSSI extends across 'Open Access' land on the Fell and north-eastwards as far as the Carlisle Road from the village to the A6. Whilst there is an area of Open Access land under the CROW Act (parcel reg. Number 220041200015), at the time of the 2004 designation, the single agreed access route is solely from the A6 to the West and for the above reasons not through the forestry areas or near the working quarry. There is no "Open Access" land directly contiguous with any public highway.

In table 3 of the Draft Neighbourhood Plan, the "definitive map" is referred to and paths being in existence at the time excluded by Sir Gerald Ley in the 1950s. There is absolutely no record or knowledge by the current owners of the Estate of any evidence to support this statement. This is private land where there has been no public access for over 60 years such that even had any rights existed, they will have long been extinguished and so cannot simply be reinstated in the way proposed. The Brackenburgh Estate also has no intention to allow any permissive rights of access for all the reasons set out within this submission.

In conclusion, the proposed footpaths will damage our clients' land and its ability to manage Lazonby Fell and the surrounding area and consideration of this should be fully taken into account when producing the Neighbourhood Plan document. As such, we cannot, in its present state, support Section 6.5 'Footpaths and Cycleways' of the Neighbourhood Plan.

Whilst we acknowledge the keenness to extend the number of public footpaths in the Parish, it is considered that these should be within close proximity to the village. As the Draft Plan already indicates, there are already several existing Public Rights of Way in and around the settlement of Lazonby. Extending footpaths onto Estate land which is under significant management and operations is not practical or appropriate and conflicts of use will undoubtedly arise.

We therefore respectfully request that the proposed new footpaths throughout our clients' landholdings are removed from the Neighbourhood Plan on the grounds that attempts to reinstate footpaths excluded from the Definitive map in the 1950s will:

- Have an unacceptably adverse impact on farming practices throughout the Estates;
- Have significant Public Liability and Health and Safety Risks
- Have an unacceptably adverse impact on woodland operations;
- Have an unacceptably adverse impact on minerals rights;



- Have an unacceptably adverse impact on existing sporting rights;
- Cause significantly increased fire risks on Lazonby Fell.
- Lead to unacceptably adverse landscape impacts if fencing is required to protect the Estate's land; and,
- Be harmful to the nationally designated SSSI at Lazonby Fell.

As it currently stands, it is considered that the proposals set out in the Neighbourhood Plan are undeliverable and therefore not considered adoptable. However, subject to the removal of the proposed footpaths within our client's landownership, we would have no further objections to the Neighbourhood Plan (in particular, Policy D8 'Footpaths').

We would welcome acknowledgement of receipt of this letter and would be more than happy to discuss this matter further with you if deemed necessary.

If you have any queries regarding the above, please do not hesitate to contact me. In the meantime, we respectfully request that the above comments are taken fully into consideration as the Neighbourhood Plan progresses to its next stage.

Yours sincerely /



Jennifer Longstaff • BA (Hons) MSc MRTPI
Associate Director

Enc –

Brackenburgh Estate Boundary Plan
Plan showing the Proposed Footpaths on Brackenburgh land per Eden District Council

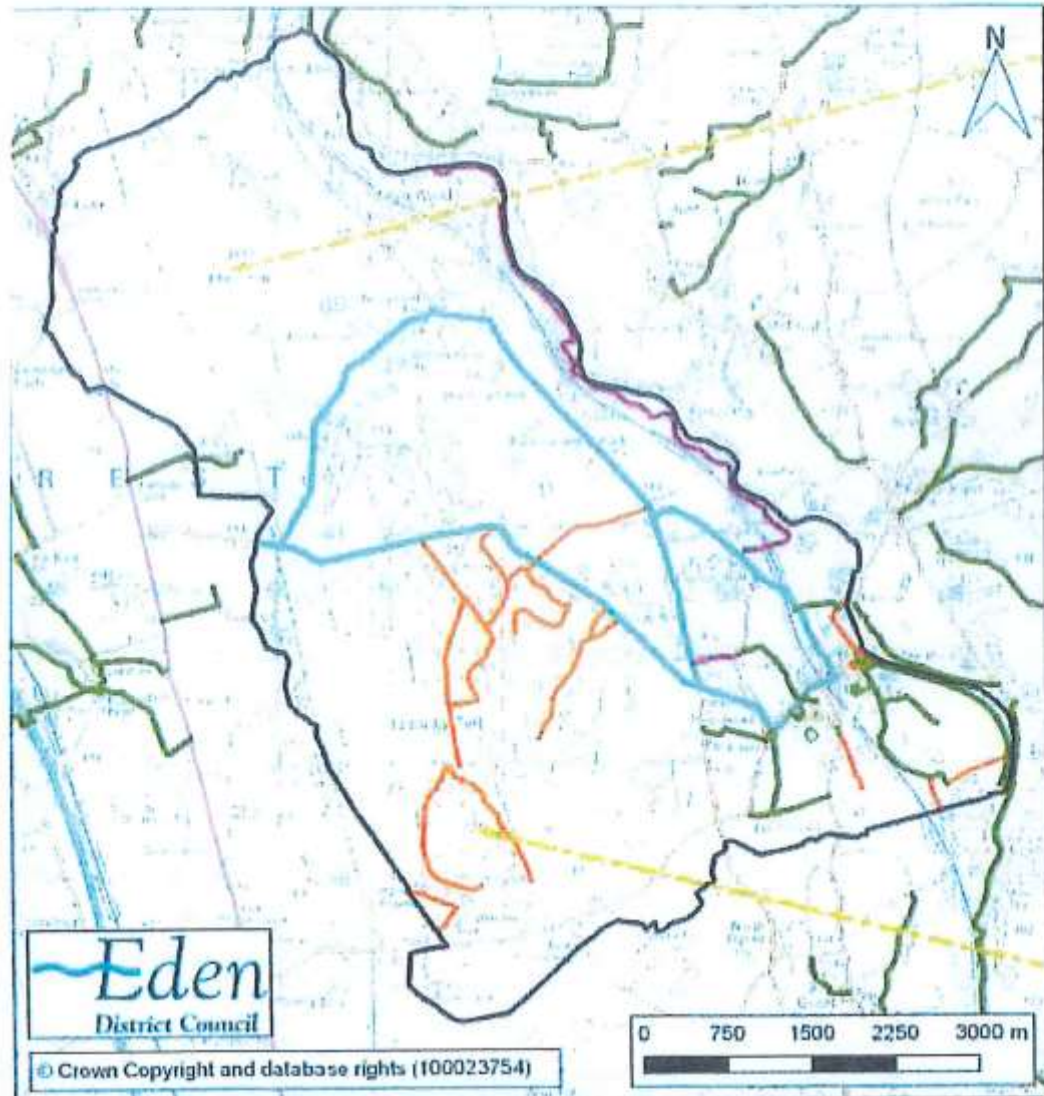
BRACKENBURGH ESTATE OWNERSHIP
LAND EAST OF A6 AND LAZONBY FELL



© Crown Copyright 2011. All rights reserved. Licence number 100010102. Printed Scale - 1:10,000



ESTATE BOUNDARY EDGED RED
LAND IN LAZONBY PARISH EDGED BLUE



Scale: 1:48,000@A4 GM/AD/29.11.16

Key	
	Parish boundary
	Indication of Protected Views / Sight Lines
	Public Rights of Way
	Proposed New Footpath
	Proposed Cycleway
	Historic Footpath
	Amenity Area
	Proposed Amenity Area

Figure 7 | MD designations in the parish