

Lazonby Neighbourhood Plan (Pre-submission Draft June 2017) Response on behalf of the Lazonby Estate Settlement 2000

24 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 letter

Lazonby Neighbourhood Plan (Pre-Submission Draft June 2017) Response on behalf of the Lazonby Estate Settlement 2000

Introduction

We write to you on behalf of our clients, the Lazonby Estate Settlement 2000, to comment on the Lazonby Neighbourhood Plan (Pre-Submission Draft June 2017). The Trustees of the Settlement have noted the immense time and trouble that the Parish Council have taken in the undertaking of this Neighbourhood Plan however, we write to voice our strong concern over certain elements proposed to be included within the Plan.

The Lazonby Estate is a significant landowner within the Neighbourhood Plan area. It is a privately owned Estate situated to the north of Penrith and covers approximately 2000 acres of agricultural land and woodlands to the North and West of Lazonby village. The Estate is managed principally for its farming, sporting, forestry & holiday let enterprises, together with let homes for many of the occupants who are part of and support the Lazonby village community.

Consultation

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. One of the proposed New Footpaths and both Historic Footpaths are located on the Estate's land. Our clients are disappointed that consultations regarding the proposed footpaths on their land had not been discussed with them, as the landowners, prior to the current consultation on the Pre-Submission Draft of the Neighbourhood Plan.

Additionally, we now hear that the Steering Group believe that a leaflet on the Neighbourhood Plan has been delivered to Lazonby Manor on three occasions. Our clients have confirmed to the contrary that they have not had such a leaflet delivered by hand, by post or by email to the Estate Office (which is situated in the Yard of the Manor) at any time in the last 3 years. Had we been aware sooner of the proposals we could have advised of the problems that would be created by designating private estate tracks into Public Rights of Way in the hope of persuading the Group at an early stage that these should not form part of the Neighbourhood Plan.

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'. We consider that insufficient effort has been made to engage with our client during the process.

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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.

Objection

We would like to confirm at this stage that we strongly object to the proposals in respect of the proposed new Footpaths and designation of Historic Footpaths that are located on land within our clients' ownership. The reasons for this objection are set out as follows.

Reasons

First, as existing, these are access tracks for the Estate which are used to manage the land. The access tracks are for the woods, farmland, fishing and sporting rights. Most gates confirm that the land is private an example as shown in the attached photograph. Redefining these access tracks as new footpaths or Historic Footpaths would have a seriously adverse impact on the Estate's varied enterprises.

The one proposed footpath (marked on the LNP in Orange, photo attached of west end) is along a track that was constructed within the last 20 years by one of the current Trustees' father for the sole use of farm vehicles. This has been of immense importance to the management of the farming enterprise as it enables the Lazonby Estate Farm enterprise and their tenants to access areas which hitherto was not possible for large modern machinery. This track is unfenced and has cattle grids from one field into another along the route with no gates to allow this track to be walked with safety. These unfenced fields are continually grazed with Sheep and Cattle (with young calves) and with the stock and large farm vehicles we would consider it highly unsuitable for Public access. This would be without doubt a Health and Safety issue for the Public in a number of ways. The track is clearly signed Private at each end and one end is gated with a usually closed gate.

Specifically in relation to the impact on agricultural practices, Lazonby Estate Farm is a well-known stock rearing holding, running commercial sheep and cattle, as well as a pedigree flock of Texel sheep. Management of livestock to stop the introduction of disease is an important element of how the holding is run. The proposed footpaths could well increase the number of people that travel across the farmland from Lazonby village into the area used by the Lazonby Estate Farm animals. This is of particular concern due to Lazonby auction market being located on the northern edge of the village. This means that compared to other residential areas in the countryside, there is more of a danger that livestock from out of the area could bring in disease to the edge of the village and for this to then be transmitted by a walker using the proposed footpaths to Lazonby Estate Farm sheep or cattle.

Of particular concern currently is the confirmation of bovine tuberculosis (bTB) in wildlife to the south of Penrith. The proposed footpaths could cause the populations of wildlife inhabiting Lazonby to be disturbed by the greater foot traffic passing through the Estate. Elsewhere in the country where bTB has been an ongoing issue disturbance to wildlife populations has been linked to the spread of the disease, meaning the proposed footpaths are especially a worry in the current climate.

The Footpaths would impede on the existing woodland operations. Significantly one route is across a forestry and agricultural access track installed by Lazonby Estates to serve the commercial businesses on the Estate including woodland management and timber extraction. This route is used by forwarding machinery (12t +) and timber wagons (48t fully loaded) regularly throughout the year. Timber is stacked at the track side for uplift by haulage wagons with the grab picking the timber up and swinging it round to the wagon. Creating a public right of way on this route would put users at risk to these highly intense machinery operations.

Increasing the public rights of way and access across the Estate would seriously impact the costs associated with the woodland management operations and the Health & Safety required to work the Estate woodlands. This could potentially make these business operations unviable as well as creating higher risk operations for the Estate and contractors to manage.



Woodland management across the Estate has been developed to have the more commercial operations focused in areas where there are no public rights of way. Creating rights of way in these areas will affect the rotation of the current crops for their full crop rotation which is anything between 50-100years.

The creation and management of public rights of way has costs associated with fencing off routes from commercial operations and livestock, creating safe routes and infrastructure and managing vegetation to maintain routes. These costs are on-going in perpetuity for landowners and these costs are too high to be borne within the margins of the Estate businesses.

Additionally, the proposed footpaths would have an adverse impact on the sporting rights associated with the land. As one would understand, introducing public footpaths on to land which is used for shooting would have significant impacts in respect of health and safety of the public when the shoots are taking place. There is a shooting syndicate on the Estate and the effects on their enjoyment of their rights would be enormous. The proposed Footpath and Historic Footpaths pass close to pheasant release pens and there is great potential for disturbance to those birds by both walkers and more likely their dogs. Re-siting of the pens would be an inevitable consequence.

As such, 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 of the area.

The River Eden and Tributaries SSSI & Historic Footpath

The proposed Historic Footpath designations would impact on the Eden Gorge SSSI (Reference 1003866), this is a key feature of the Higher Level Stewardship agreement that Lazonby Estate has entered into with Natural England. As part of this stewardship agreement it is a requirement that native breed cattle graze this area, and at Lazonby this is achieved with Highland cattle. The Highlands are particularly suited to this sort of grazing and hardy enough to withstand being out wintered. However to achieve the objectives of the stewardship scheme it is vital that the cattle are able to freely roam over this area, so that their grazing does not become too concentrated in one part of the SSSI. Therefore the extra public access that the footpaths would bring is a concern as this could affect the cattle foraging patterns. Additionally Highland cattle are particularly defensive of one another, especially when they have calves, so by public accessing this area, it will result in a health and safety risk that may mean the cattle grazing would have to stop, which would have a detrimental effect on the SSSI.

By far the larger of the two, is the one along the River Eden is to allow fishing tenants access to the River. The start of this route is shown to cross in front of Woodend Farm which is now known as Lazonby Manor. It does not connect anywhere with a public road. Lazonby Manor has for the last 25 years been the private home of the Williams-Ellis family (Granddaughter of Sir Gerald Ley) and not once in this period has anyone crossed this field from the roadside using the manor's private road. The Lazonby Estate Fishing is managed through bookings, and anglers are only given access to the tracks solely to fish on a daily basis and all the fished area forms part of the SSSI.

This fields are mostly commonly grazed by horses, sheep & young lambs and in some months by a herd of Highland Cattle. As the path extends to the river it then enters onto the land belonging to the Garden of Eden in Cumbria Ltd (reference Public Inquiry 1993) in which the Garden of Eden won the case against the Cumbria County Council, with the ruling that these paths were not to be added to the definitive map. From 1993 to the present date these paths have been for the sole use of the Estate Team, the family members and the Farming enterprise. There are numerous witness statements available which were submitted to that Public Inquiry which can be supplied if required to support the fact that no rights had been established on these routes.

The route the Historic Footpath takes on the ground is far from clear and should anybody try to follow it they would find it close to impossible to achieve and therefore ending up wandering at liberty across Estate land. It is not believed that this is the intended purpose of the proposed designation and is totally unacceptable.

SSSI's were notified under Section 28 of the Wildlife and Countryside Act 1981, as amended. Special Areas of Conservation (SACs) are strictly protected sites designated under the EC Habitats Directive. Many designated sites are on private land and the listing of a site does not imply any right of public access. The River Eden and Tributaries SSSI is 410km in length and is an outstanding floristically rich, northern river on sandstone and hard limestone.

As set out by Natural England, "operations likely to damage the special interest of both SSSI's include the construction, removal or destruction of roads, tracks....." Formalising Historic Footpaths as Public Footpaths throughout the Lazonby Estate could therefore be detrimental to these important national designations. Furthermore, Natural England states that access to this site, and any recreational activities within, may need to be controlled.

These national designations should be recognised throughout the Neighbourhood Plan and we respectfully enquire as to whether any consultation has yet been held with Natural England specifically in respect of the proposed Footpaths within the River Eden and Tributaries SSSI and the Eden Gorge SSSI?

Second Historic Footpath Designation

The second Historic Footpath coloured purple travels east to west from Garthfolds Farm across grass and arable land. The existing Public Footpath comes into part of the farmyard from the East and this already has its dangers being through the centre of a working farmyard. (see photo attached). The proposed designation will extend through the working farm yard on the west side of the road (see photo attached). This is going to increase the health and safety risks of farming in this location but also the access onto the highway is already totally blind and dangerous.

Support For Plan

Our clients are keen to support the plan where they can and with regard to Cycleways set out in Policy D9 we consider that improvements to the network are an example. Their concern for a number of years has been the danger to cyclists on the public roads both within the Estate boundary but also on the wider road network within the Lazonby Neighbourhood Plan and Parish area. Any proposals for consultation on improved and indeed new road signage for example, showing these roads are used by cyclists would be constructively encouraged. These country roads of B, C and Unclassified status are used heavily by HGVs whilst other lighter vehicles drive at excessive speeds for the type of roads.

Conclusions

In conclusion it is strongly considered that the proposed new Footpath and designation of Historic Footpaths will damage our client's land management at Lazonby Estate and consideration of this should be strongly 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.

Summary of Adverse Impacts;

We therefore respectfully request that the proposed new Footpath and Historic Footpaths through our clients' landholding are removed from the Neighbourhood Plan, on the grounds that attempts to reinstate footpaths whether as new Footpaths or as Historic Footpaths excluded from the Definitive map in the 1950s will:

- Have an unacceptably adverse impact on farming practices throughout the Estate;
- Increase the disease risk to the Estate's livestock;
- Have an unacceptably adverse impact on woodland operations;
- Have an unacceptably adverse impact on fishing rights;


- Have an unacceptably adverse impact on the SSSI;
- Have an unacceptably adverse impact on existing sporting rights;
- Cause Health and Safety risk to the public;
- Lead to unacceptably adverse landscape impacts if fencing is required to protect the Estate's land and
- Mislead the public into believing that designated Historic Footpaths convey rights of access which they do not.

As it currently stands, we believe the proposals set out in the Neighbourhood Plan are undeliverable and therefore not considered adoptable either. However, subject to the removal of the proposed New Footpath and designations of Historic 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 in to consideration as the Neighbourhood Plan progresses to its next stage.

Yours sincerely,



Jennifer Longstaff • BA (Hons) MSc MRTPI
Associate Director

Enc –
Lazonby Estate Settlement Boundary Plan
Proposed Footpaths and Cycleway Plan – Eden DC
Photos of start of Proposed new Footpath and Historic Footpath proposed routes

LAZONBY ESTATE SETTLEMENT
LAND OWNERSHIP



LAZONBY ESTATE BOUNDARY EDGED RED
ALL LAND IN LAZONBY PARISH SAVE FOR AREAS NORTH/EAST OF RIVER EDEN





UNMARKED HISTORIC FOOTPATH ACROSS LATENBY ESTATE LAND



EXISTING PUBLIC FOOTPATH THROUGH WORKING FARMYARD



PROPOSED FOOTPATH ROUTE ON PRIVATE ROAD



PROPOSED HISTORIC FOOTPATH THROUGH WORKING FARMYARD



PROPOSED HISTORIC FOOTPATH ON STEWARDSHIP GRASS MARGINS