

NYMNPA

04/08/2022

From: John Long
Sent: 04 August 2022 13:02
To: Hilary Saunders
Subject: - NYM/2022/0470 Plot rear of Cross Farm Barns Egton -
Statements of Truth and revised BNG report

Thanks Hilary

I have discussed with the Estate and they have confirmed that they can be issued and published on the website.

John

From: Hilary Saunders
Sent: 04 August 2022 12:54
To: John Long
Subject: NYM/2022/0470 Plot rear of Cross Farm Barns Egton - Statements of Truth and revised BNG report

Thanks John,

You have marked this as private and confidential but in order for me to be able to take these into account the information needs to be published on our website and sent to the Highway Authority.

Please can you advise.

Thanks

Hilary

Mrs Hilary Saunders MRTPI
Planning Team Leader (Development Management)
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Helmsley
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YO62 5BP

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www.northyorkmoors.org.uk

From: John Long
Sent: 04 August 2022 12:44
To: Hilary Saunders
Subject: NYM/2022/0470 Plot rear of Cross Farm Barns Egton - Statements of Truth and revised BNG report

Dear Hilary

Please find attached 3 Statements of Truth in respect of the unfettered use of the access to the rear of Cross Farm Barns/outbuilding. They can be turned into a statutory declaration format if necessary, but it might take a couple of weeks due to holidays/getting additional solicitors instructed etc.

I also attach a corrected BNG assessment, the ecologist has informed me that there was an error on the original.

Also, the Estate have asked me to submit an Appeal on the original r/o Cross Farm application refusal, which I have done today (deadline was the 7 Aug). I have sent the material to the address suggested on the Inspectorate's website (dc@northyorkmoors-mpa.gov.uk - which didn't look quite right), so copied it to your normal planning@northyorkmoors email address. Apologies if you get it twice.

Thanks

John Long

john long planning.

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DATED

29 July

2022

ROBERT CHILDERHOUSE

**STATEMENT OF TRUTH CONFIRMING USE OF A RIGHT OF
WAY OVER A PRIVATE ROAD**

 **birketts**

birketts.co.uk

I, Robert Childerhouse care The Old Vicarage, Lythe, Whitby, North Yorkshire YO21 3RW make this statement to evidence continued use of a right of way:

1. I have been employed by The Most Honourable Constantine Edmund Walter ("Lord Normanby") since 1 September 2016 in the role of Estates Director and I know Lord Normanby to be the owner of the freehold property known as Cross Farm Barn, Egton, Whitby, North Yorkshire YO21 1TZ and the garden or paddock area to the rear of it as the same are registered as part of Title Number NYK245709 and are shown edged red on the plan (**Plan**) attached to this statement and marked "ST1" (**Benefiting Land**).
2. A private roadway (**Road**) shown coloured blue passes between the points marked A and B on the plan attached to this statement and marked "ST2". I believe title to the Road is unregistered at HM Land Registry but I understand that the Road may form part of the adjoining Egton Estate owned by Mr and Mrs Foster.
3. The Road runs between the public highway known as Egton High Street and the neighbouring property to the Benefiting Land which is known as Egton Slaughterhouse, Egton, Whitby and is registered at HM Land Registry under title number NYK215236. The Road is shown in the Google Street View snapshot from March 2009 attached to this statement and marked "ST3". The Benefiting Land benefits from an express right of way over part of Egton Slaughterhouse and I believe a right of way has been established by long user over the part of the Road which is not registered at HM Land Registry.
4. I am personally aware of the continual uninterrupted use of the Road as access both to the Cross Farm Barn building and the paddock by the following occupiers:
 - 4.1 From September 2016 to September 2019 by Mr Donnelly as a commercial gin distillery. The track and rear yard were used for deliveries and staff parking.
 - 4.2 Access to the garden, yard and paddock land to the rear of the Cross Farm building was grazed under an unwritten farm business tenancy by Mr John Smith for over 25 years until 12 February 2021.
 - 4.3 The paddock was then under the control of the Mulgrave Estate until April 2021 when it was let under licence to Mr Cornforth where the use of the Road was as access to the yard and paddock.
 - 4.4 I believe for all the above occupiers the use of the Road has been continual both on foot and with private motor and commercial vehicles.
5. I am aware that pursuant to the planning consent (reference 4/32/76A/PA) granted on 3 December 1980 for the conversion of the Cross Farm Barn building from agricultural to commercial use the Road was intended to be used as an emergency access only

but that has not been the case in practice and I am not aware of any enforcement action having been taken to prevent the continued use of the Road detailed in this Statement. I believe the use of the Road detailed in this Statement has always been exercised without force, secrecy or third party permission.

I believe that the ~~facts~~ and matters contained in this statement are true.

Signed

Print full name:

ROBERT CHILDERHOUSE

Date:

29/7/22

Mulgrave Estate

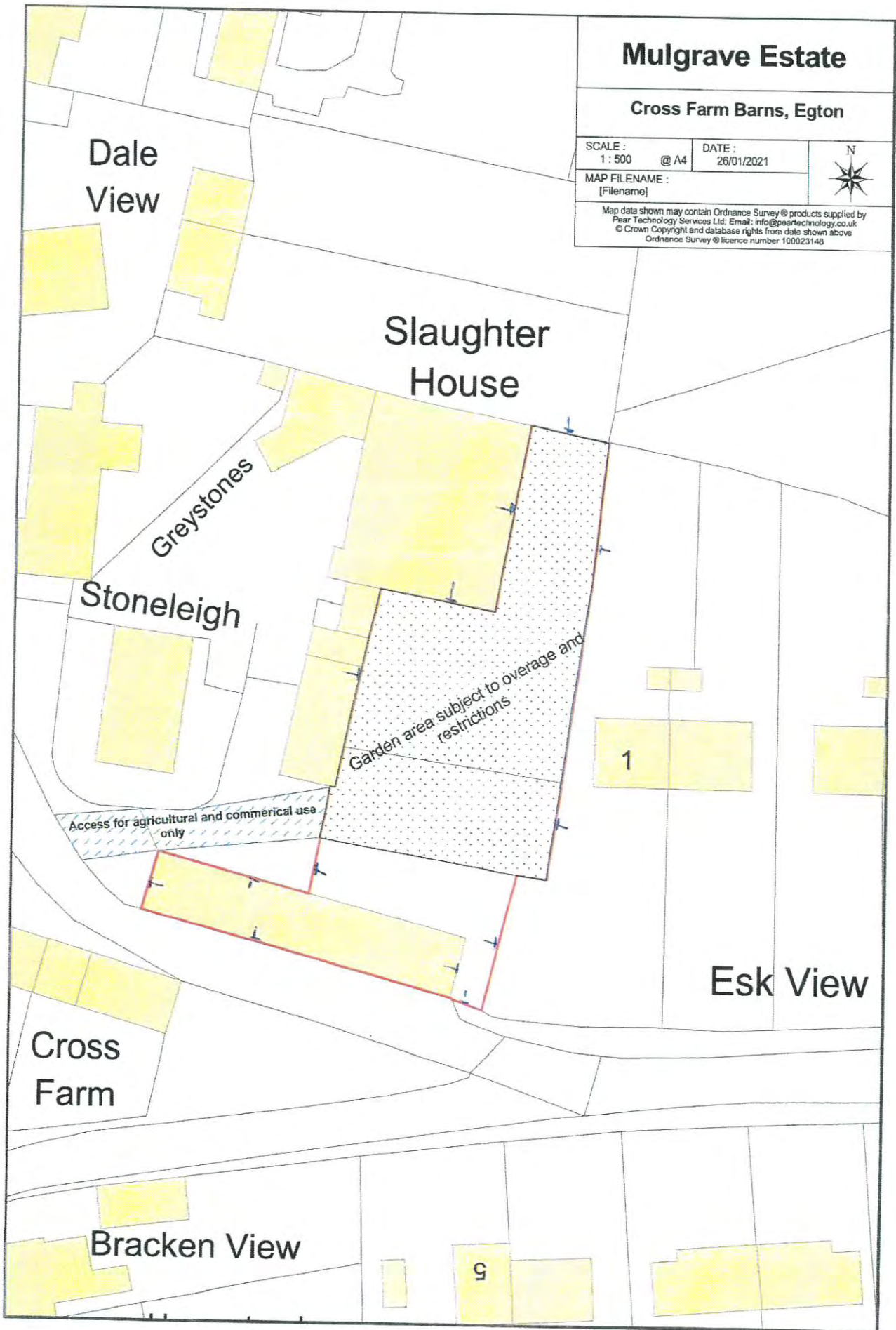
Cross Farm Barns, Egton

SCALE : 1 : 500 @ A4 DATE : 26/01/2021

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BIODIVERSITY NET GAIN DESIGN REPORT

Cross Farm, Egton

July 2022



MAB Environment & Ecology Ltd
11a Kirkgate, Thirsk YO7 1PQ

Registered in the U.K. no.6504129

Registered office: The Old Chapel, Knayton, Thirsk YO7 4AZ

Biodiversity Net Gain Design Report: Land behind Cross Farm, Egton

Author	Jake Walker BSC (Hons)	
Status	Date	Approved by:
Final	26-07-2022	Ione Bateau MCIEEM

Site:

Land behind Cross Farm Barn,
Egton,
Whitby

Dates:

Surveyed: Wednesday 9th March 2022

Client:

Mulgrave Estate

Client's agent:

John Long Planning

Local Planning Authority: North York Moors National Park

MAB ref: 1302-2022

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1 Summary

A Biodiversity Net Gain (BNG) metric has been undertaken for a proposed residential development. Modified and other neutral grassland will be lost to the development. The development has sought to mitigate habitat loss where possible and will aim to create higher distinctiveness habitats to off-set the unavoidable losses. Proposed mitigation will seek to enhance a 0.014-hectare section of other neutral grassland → Traditional orchard.

The development will also look to create a 0.005-hectare area of native mixed scrub, build a large ground level planter and plant four urban trees.

The proposed development will result in a 42.33% gain in habitat units.

Whilst not contributing to the net gain calculation, bat and bird boxes will be incorporated into the development to enhance the site for these species.

A creation and management plan for the created and enhanced habitats has been included within the report. Full details can be found in Section 9 and 10.

2 Introduction

MAB Environment and Ecology Ltd was commissioned by Mulgrave Estate to compile a Biodiversity Net Gain Design Report for land behind Cross Farm barn to accompany a planning application for construction of a single residential dwelling.

The site comprises a mixture of modified grassland, and other neutral grassland, with scattered tall herbs. The site is located at within Egton village, OS Grid Ref NZ80860638. The site location is shown on Figure 1.

The objectives of this report are to:

- Establish baseline conditions on-site.
- Provide habitat baseline plan, and proposed design plans.
- Determine feasibility of the development achieving Biodiversity Net Gain (BNG)
- Provide a BNG Monitoring and Management Plan (MMP)

Ecologists from MAB Environment and Ecology Ltd are members of the Chartered Institute of Ecology and Environmental Management (CIEEM) and follow the Institute's Code of Professional Conduct when carrying out ecological work.

3 Methodology

3.1 Desktop study

3.1.1 DEFRA's interactive MAGIC map was used for a baseline assessment of available environmental information of over 300 datasets including Priority Habitats & Species inventories, Designations, Environmental & Historic Landscape Agreements, SSSI impact zones, and Wildlife Licenses.

3.1.2 Aerial imagery from Google Earth and government websites 'MAGIC' and were used to search for ponds within 250m of the site.

3.2 Field survey, Mapping, and Metric Calculations

3.2.1 Baseline site surveys were undertaken in May 2022 by Jake Walker who is a consultant ecologist and a qualifying member of CIEEM. He has worked for MAB since 2020 and holds a Class Survey Licence WLM-A34 (Bat Survey Level 1) registration number 2021-51430-CLS-CLS and a Level 1 Class Survey Great Crested Newt Licence 2022-10177-CL08-GCN.

3.2.2 UK HABS habitat survey of the site was conducted following standard published guidelines (Butcher et al, 2020). This involved a walkover of the site, mapping all habitats present which fell into the appropriate Minimum Mapping Units (MMU). MMU's were decided upon pre survey. Small scale MMU's = Area 25m², linear feature 5m. Large scale MMU = Area 400m², Linear feature 20m. Species proportions were recorded where possible using the DAFOR scale where D is dominant, A is abundant, F is frequent, O is occasional and R rare. The survey was extended to include records of protected or notable fauna and the habitats were evaluated for their potential to support such fauna. Any invasive plant species listed on Schedule 9 of the Wildlife and Countryside Act were also recorded.

3.2.3 Spatially accurate digital baseline and proposed habitat maps were created using QGIS3. UK Habs symbology was used to show habitat types, and linear features within the site; OS Mastermaps were used in conjunction with British National Grid OSG:2700 co-ordinate system to obtain accurate habitat dimensions.

3.2.4 Biodiversity Metric 3.1 was used to determine baseline metric calculations and biodiversity scores post-development.

4 Limitations

There were no limitations regarding survey data or BNG calculations

5 Baseline ecological conditions

5.1 Current Site conditions

The site is comprised of modified grassland and other neutral grassland. The section of modified grassland has been managed by regular mowing, with a short, uniformed sward height. Other neutral grassland is unmanaged, with the presence of tall herb species including, mugwort (*Artemisia vulgaris*), common nettle (*Urtica dioica*) rosebay willowherb (*Chamerion angustifolium*), and hogweed (*Heracleum sphondylium*).

The baseline assessment was undertaken outside of the flowering season, however, vegetative remains of the flowering forbs, and grass species, has allowed for confidence in habitat assessment.

Baseline habitats and conditions			
Date of data collection & surveyor	Jake walker BSc (Hons): 09/03/2022		
Habitat	Condition	Size (ha)	BNG Units
Modified grassland	Moderate	0.029	0.12
Other neutral grassland	Moderate	0.047	0.38

Table 1: Baseline habitats.

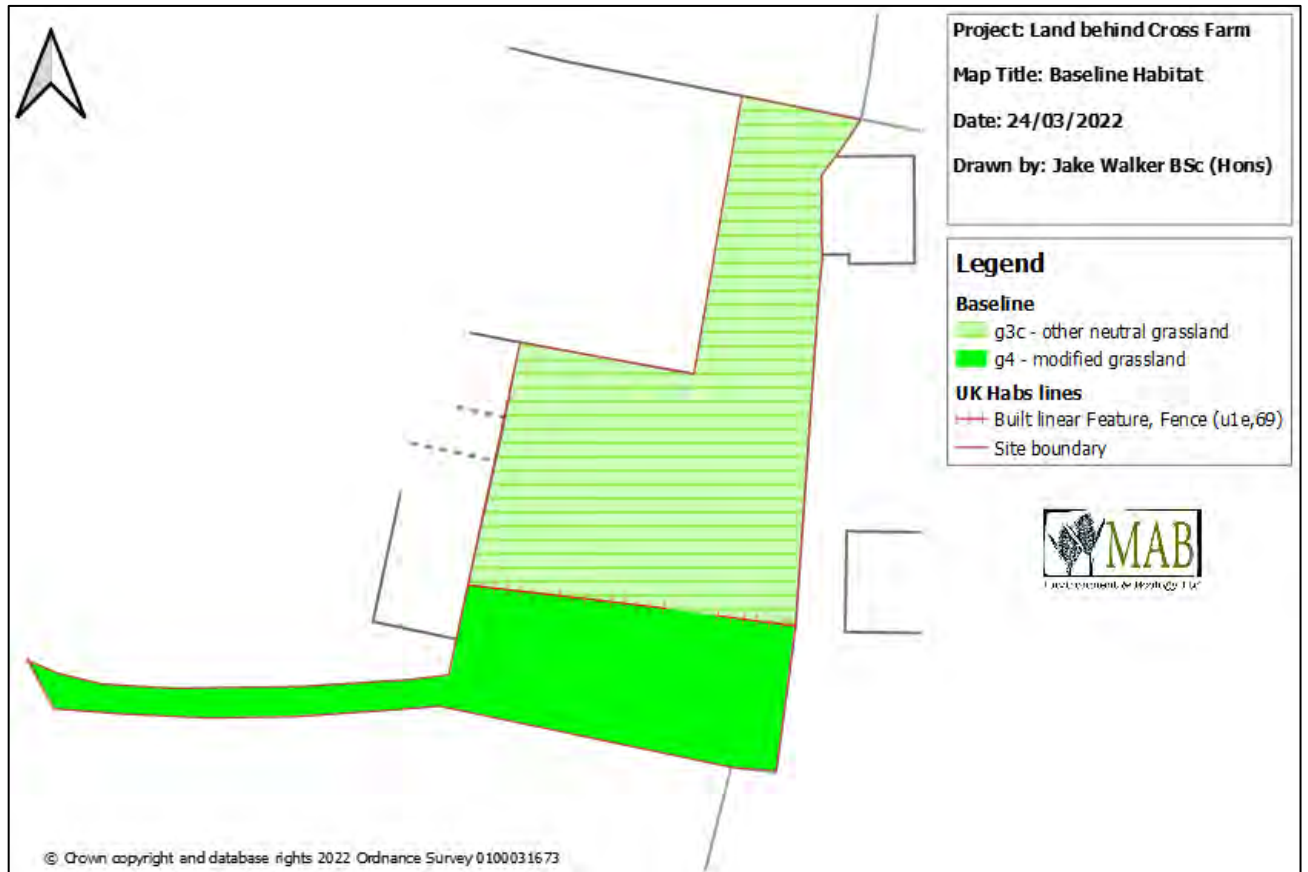


Figure 1: UK Habitat map of baseline habitats.

5.2 Priority habitats

5.2.1 A search of priority habitats on MAGIC within 1km of the site returned results for deciduous woodland. No priority habitats are found within the site and the small scale of the development is unlikely to impact priority habitats within the locale.

5.3 Protected species

5.3.1 There is no evidence to suggest that the development will impact protected species.

5.4 Designated sites

5.4.1 A search of MAGIC maps for designated sites within 1km of the site, showed that there are no SAC's, or SSSI's. The site is however, located within the North York Moors National Park.

5.5 Baseline Metric calculations

Ref	Habitats and areas			Distinctiveness		Condition		Strategic significance			Suggested action to address habitat losses	Ecological baseline Total habitat units
	Broad habitat	Habitat type	Area (hectares)	Distinctiveness	Score	Condition	Score	Strategic significance	Strategic significance	Strategic Significance multiplier		
1	Grassland	Modified grassland	0.029	Low	2	Moderate	2	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same distinctiveness or better habitat required	0.12
2	Grassland	Other neutral grassland	0.047	Medium	4	Moderate	2	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	0.38
3												
4												
5												
			0.08									0.49

Figure 2: Baseline biodiversity metric.

6 Good Practice Principles

6.1.1 **Apply mitigation hierarchy:** Where possible the development has retained and enhanced habitats, avoided impacts and looked at compensatory measures to offset the impacts of the development.

6.1.2 **Avoid losing biodiversity that cannot be offset elsewhere:** There are no habitats on-site that could not be offset elsewhere.

6.1.3 **Be inclusive and equitable:** the client has looked to incorporate BNG into the proposal, altering designs and layouts to address comments made by the local authority and to best achieve mitigation measure in relation to BNG.

6.1.4 **Address risk:** Risks in creating and maintaining mitigating habitats have been addressed.

6.1.5 **Make a measurable net gain contribution:** The development will make a measurable net gain contribution.

6.1.6 **Achieve the best outcomes for biodiversity:** The development will enhance existing grassland on-site to a higher distinctiveness habitat.

6.1.7 **Be additional:** The development will incorporate integral bat and bird boxes into the development.

6.1.8 **Create a net gain legacy:** enhancement of the grassland, and planting of mixed scrub have been incorporated into the design plans, aiming to ensure longevity.

6.1.9 **Optimise sustainability:** Where appropriate BNG has been optimised/prioritised.

6.1.10 **Be transparent:** Development of the site and BNG proposals have been co-ordinated in a transparent fashion between, the architect, ecologist and client.

7 Proposed design

7.1.1 The proposed development is for the construction of a single residential dwelling with associated landscaping and access. Figure 3 shows the proposed development; Figure 4 highlights the proposed boundary design with overlaid proposed habitats.

7.1.2 Within the proposed development and landscape design, there shall be enhancement of the northern section of other neutral grassland. The grassland will be enhanced to a traditional orchard via native tree planting and management. Additionally, a section of mixed scrub shall be planted along the southern boundary, and a large garden planter will be created along the northern elevation of the proposed house. Four newly planted trees will be planted within the site, located within the area of mixed scrubs.

7.1.3 Additionally, whilst not contributing to the overall BNG metric, bat and bird boxes shall be integrated into the development.

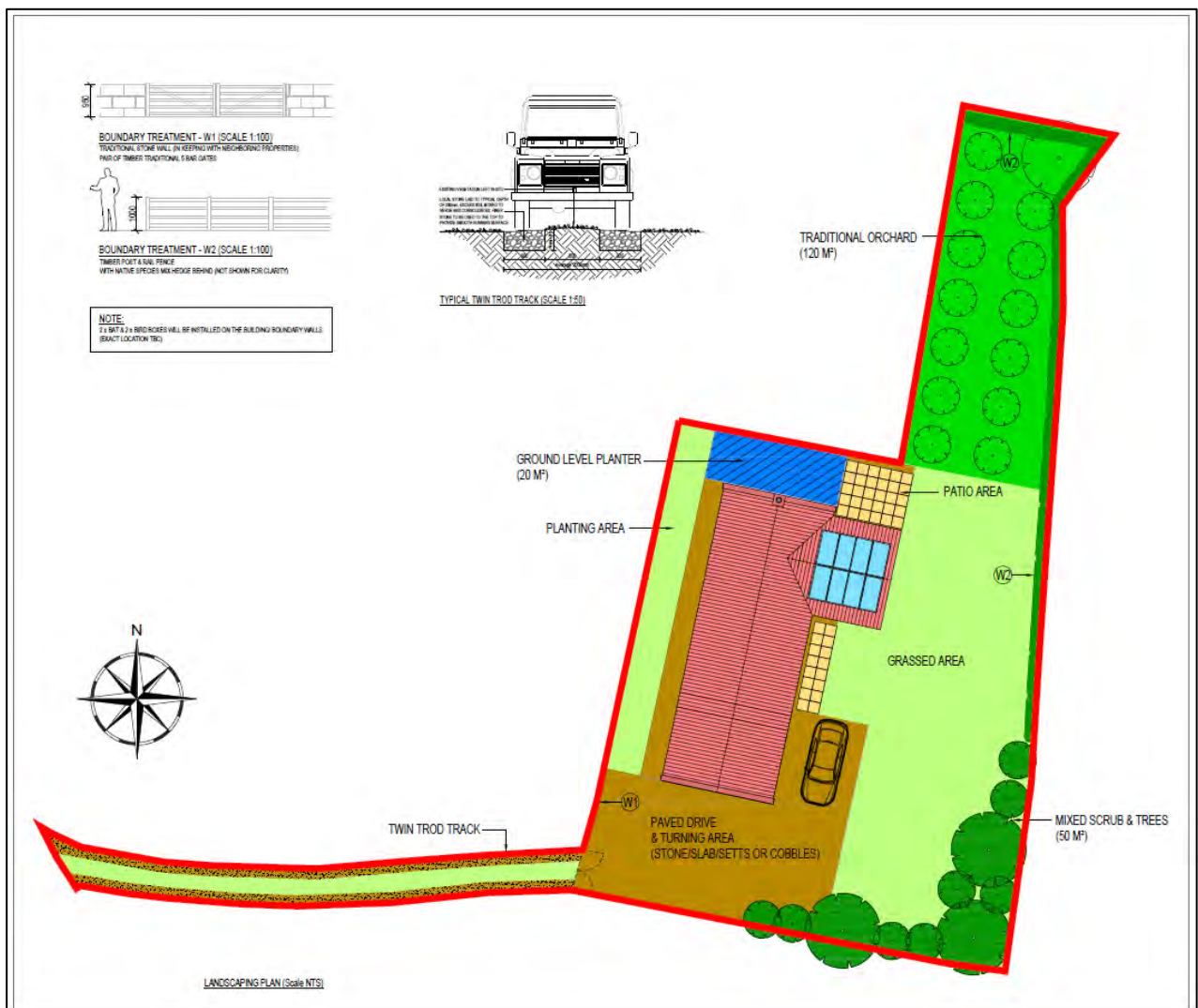


Figure 3: Proposed development and landscape design.

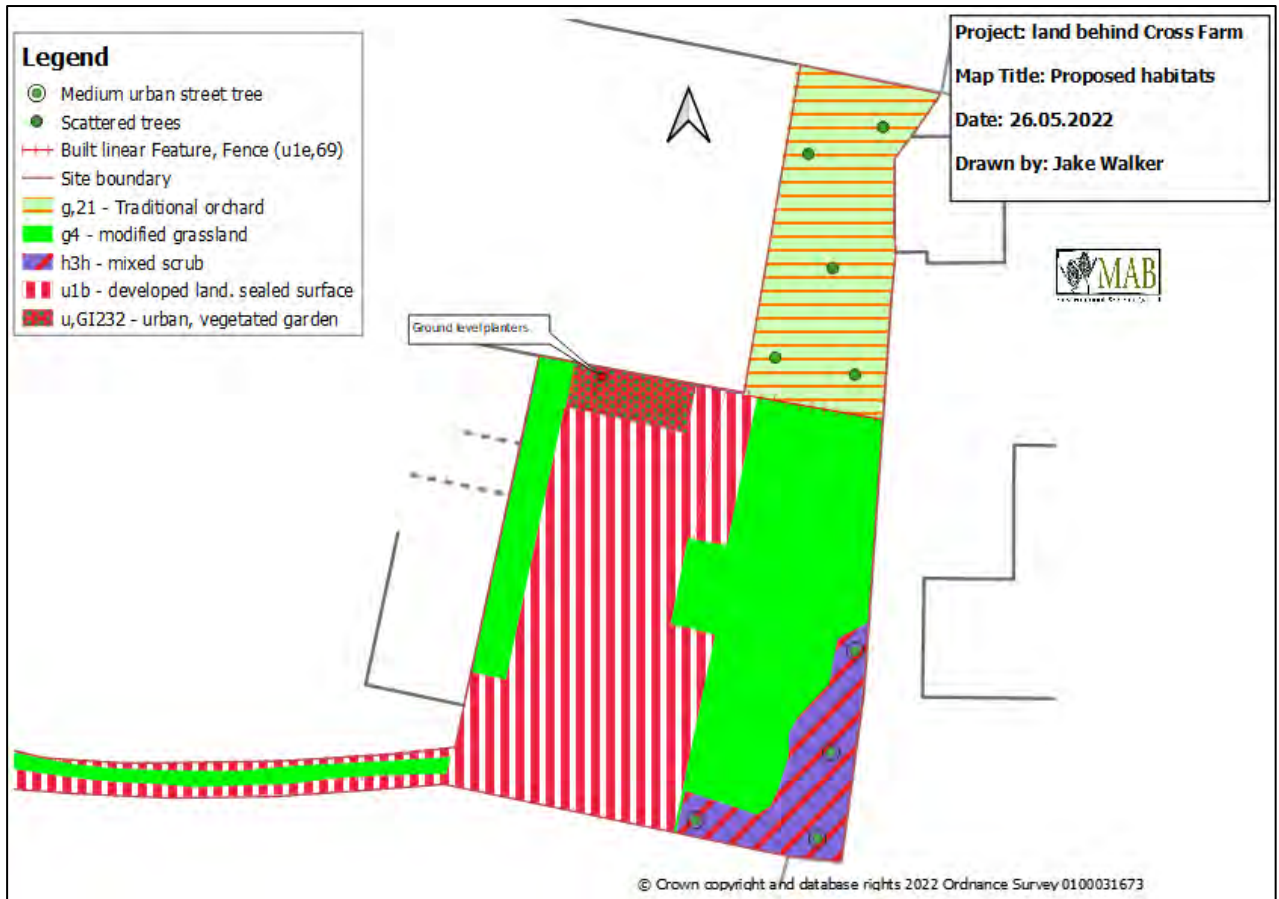


Figure 4: Proposed habitats, with overlay of the proposed development plan; orchard trees in approximate planting formation & number.

Enhanced Habitat			
Area Habitats			
Habitat	Area (ha)	Condition	BNG Units
Other neutral grassland → Traditional orchard	0.014	Moderate	0.13

Table 2: Proposed retained habitat on-site.

Created Habitat			
Area Habitats			
Habitat	Area (ha)	Condition	BNG Units
Developed land; sealed surface	0.014	N/A	0
Modified grassland	0.0248	Moderate	0.08
Urban Tree	0.0072	Moderate	0.45
Ground level planter	0.002	N/A	0
Mixed scrub	0.005	Moderate	0.03

Table 3: Proposed created habitats on-site.

8 Biodiversity Net Gain Metric

8.1.1 The proposed development will result in a 42.33% increase in biodiversity, this equates to a gain of 0.21 habitat units.

On-site baseline	<i>Habitat units</i>	0.49
	<i>Hedgerow units</i>	0.00
	<i>River units</i>	0.00
On-site post-intervention (Including habitat retention, creation & enhancement)	<i>Habitat units</i>	0.70
	<i>Hedgerow units</i>	0.00
	<i>River units</i>	0.00
On-site net % change (Including habitat retention, creation & enhancement)	<i>Habitat units</i>	42.33%
	<i>Hedgerow units</i>	0.00%
	<i>River units</i>	0.00%
Off-site baseline	<i>Habitat units</i>	0.00
	<i>Hedgerow units</i>	0.00
	<i>River units</i>	0.00
Off-site post-intervention (Including habitat retention, creation & enhancement)	<i>Habitat units</i>	0.00
	<i>Hedgerow units</i>	0.00
	<i>River units</i>	0.00
Total net unit change (including all on-site & off-site habitat retention, creation & enhancement)	<i>Habitat units</i>	0.21
	<i>Hedgerow units</i>	0.00
	<i>River units</i>	0.00
Total on-site net % change plus off-site surplus (including all on-site & off-site habitat retention, creation & enhancement)	<i>Habitat units</i>	42.33%
	<i>Hedgerow units</i>	0.00%
	<i>River units</i>	0.00%

Figure 5: Headline results.

9 Biodiversity Net Gain: Habitat Creation and Enhancement

9.1 Mixed scrub

9.1.1 Mixed scrub should be planted with native species. Recommended species include hawthorn, gorse, elder, bramble, and hazel.

Planting guidance

- Plant in clumps
- Leave unplanted gaps to create open ground as part of the mosaic
- Mix species randomly
- Use hand tools to plant
- Plant between November-March
- Scallop the edges of the scrub or scrub mosaic. To achieve this, plant patches of shrub in semi-circles and create areas of open ground in between.

9.2 Other neutral grassland → Traditional Orchard

9.2.1 Enhancement of the other neutral grassland → traditional orchard should be undertaken via planting of native fruit trees and management of the grassland.

9.2.2 Tree planting guidance has been taken from *Natural England Technical Information Note TIN014 © Natural England 2010 Second edition 19 October 2010 Traditional orchards: planting and establishing fruit trees.*

Planting guidance

- Trees should be planted in an approximation of the Quincunx formation. Four trees should be planted in 6-10m distances around a central tree (see Figure 4).
 - Tree species should be UK naturalised fruit bearing trees. Suitable species include common plum (*Prunus domestica*), apple (*Malus x domestica*), cherry plum (*Prunus cerasifera*) and pear (*Pyrus communis*)
 - Bare-rooted fruit trees should be planted from November to March, avoiding any periods of drought, or hard frost (January/February). Generally, it is best to plant in late autumn/early winter to allow the trees to become established before spring.
-

- Prior to planting, all grass and weeds should be removed in a 1 m diameter circle around each tree station. This should be done by either by physical stripping or spraying with a suitable non-residual herbicide.
- Further planting guidance can be found in *Natural England Technical Information Note TIN014 © Natural England 2010 Second edition 19 October 2010 Traditional orchards: planting and establishing fruit trees.*

9.3 Urban trees

- Suitable urban tree species include field maple (*Acer campestre*), rowan (*Sorbus aucuparia*), and silver birch (*Betula pendula*).
- Planting of new trees should be undertaken between November-March. Planting should be avoided during very cold or windy weather – not in frozen or waterlogged soils
- Bare-root and rootballed trees and shrubs should be planted immediately, but if this is not possible then they can be heeled in (temporary planting in the soil to prevent the roots drying out) until planting is possible.

9.4 Bat and Bird boxes

9.4.1 Examples of suitable integral habitat include Schwegler 1FR/2RF, 1WI Schwegler Summer and Winter Bat Box, and Bat access bricks which allow access into cavity walls. Figure (-) indicates the suggested locations for the integrated habitat.

9.4.2 Examples of suitable integral bird habitat includes Schwegler sparrow terrace 1SP, brick sparrow box, and Ibstock Eco-habitat for Swifts.



Figure 6: Proposed location of integrated habitat.

10 Habitat management

10.1 Mixed scrub

Establishment

- Once planted the scrub should be allowed to establish and mature for a period of 6-8 years. No management should be undertaken during this time.

Management

- Once established the scrub should endure an annual cut back. 10% of the scrub should be cut each year (65sqm).
- Areas of scrub should be cut in rotation – this will allow an age range of species to form alongside rides and glades within the scrub.
- Cuttings should be stacked on-site as habitat piles.

10.2 Traditional orchard

Establishment

- The 1m diameter circle should be left maintained for at least 3 years to allow the tree to establish and avoid competition for nutrients. This can be achieved by careful use of an appropriate herbicide (making sure to avoid the trunk), by hoeing (taking care not to damage the roots), by using weed suppressing membranes or mats, or by mulching.
- Regular watering may be required during the first 5 years of establishment.

Management

- Once the trees have established, the surrounding grass can be allowed to grow up to the trunk. The surrounding grassland be subjected to annual cuttings, undertaken in from mid-July to August, and in late autumn if there has been heavy grass growth. This will create a tussocky sward with varying heights.
- The grassland should be cut using a heavy-duty mower (e.g., sickle-bar mowers and motor scythes or a two-wheel strimmer) – these will create a sward of differing heights, creating microclimates for invertebrates.
- Once the trees have matured, they should be managed sympathetically for wildlife, i.e. retention of deadwood.
- Log piles can be created within the orchard area to create habitat for invertebrates.

10.3 Urban trees

10.3.1 Two years post-development newly planted trees should be assessed to determine if they have established successfully. If any trees have failed then they should be replaced, a further check on any re-planted trees should be undertaken two years post planting.

11 References

BS42020. *Biodiversity - Code of Practice for planning and development*. British Standards Institution 2013.

Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System.

<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

National Planning Policy Framework 2018: <https://www.gov.uk/government/collections/revISED-national-planning-policy-framework#revised-national-planning-policy-framework>

UK Biodiversity Action Plan Priority Species and Habitats List. <http://jncc.defra.gov.uk>

Butcher, B., Carey, P., Edmonds, R., Norton, L. Treweek, J. (2020). *UK Habitat Classification – Habitat Definitions V1.1* at <http://ukhab.org>

STEPHEN PANKS ^A, NICK WHITE ^A, AMANDA NEWSOME ^A, JACK POTTER ^A, MATT HEYDON ^A, EDWARD MAYHEW ^A, MARIA ALVAREZ ^A, TRUDY RUSSELL ^A, SARAH J. SCOTT ^B, MAX HEAVER ^C, SARAH H. SCOTT ^C, JO TREWEEK ^D, BILL BUTCHER ^E and DAVE STONE ^A 2021. Biodiversity metric 3.0: Auditing and accounting for biodiversity – User Guide. Natural England.

Natural England (2010) *Technical Information Note TIN014 Traditional orchards: planting and establishing fruit trees*

Appendix 1: Relevant policy and legislation

Planning policy

National Planning Policy Framework (England) NPPF February 2021

National planning guidance for ecological issues is set out in the updated July 2021 National Planning Policy Framework (NPPF). The requirements are consistent with those specified in the updated February 2019 NPPF; which advocate biodiversity net gain and improvement where possible, as evidenced below.

Paragraph 179 refers to the requirement of plans to “protect and enhance biodiversity and geodiversity” In order to do this, “plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”

In paragraph 180 the NPPF indicates that “when determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”

The accompanying ODPM / Defra Circular 06/2005 remains pertinent; circular 06/2005 is prescriptive in how planning officers should deal with protected species, see paragraphs 98 and 99:

The presence of a protected species is a material consideration when considering a proposal that, if carried out, would be likely to result in harm to the species or its habitat (see ODPM/Defra Circular, para 98)

LPA's should consider attaching planning conditions/entering into planning obligations to enable protection of species. They should also advise developers that they must comply with any statutory species protection issues affecting the site (ODPM/Defra Circular, para 98)

The presence and extent to which protected species will be affected must be established before planning permission is granted. If not, a decision will have been made without all the facts (ODPM/Defra Circular, para 99)

Any measures necessary to protect the species should be conditioned/planning obligations used, before the permission is granted. Conditions can also be placed on a permission in order to prevent development proceeding without a Habitats Regulations Licence (ODPM/Defra Circular, para 99).

The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.

Further to NPPF and ODPM Circular 06/2005, Section 40 of the Natural Environment and Rural Communities Act (2006) states that ‘Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of

conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Local Planning Policy

The quality and diversity of the natural environment of the North York Moors National Park will be conserved and enhanced. Development which has an unacceptable impact on the natural environment, the wildlife it supports and the environmental benefits it provides will not be permitted.

All development will be expected to:

1. Ensure that natural capital is used in efficient and sustainable ways.
2. Demonstrate, where appropriate, how it makes a positive contribution to natural capital and its ability to provide ecosystem services.

The intention of this policy (and the wider Plan) is to reinforce consideration of how new development can contribute to the first National Park statutory purpose – to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park. It requires that development proposals should show how their function and design can maintain or enhance the existing stock of environmental resources or ‘natural capital’ and the benefits that flow from them.

Strategic Policy G - Landscape

The high quality, diverse and distinctive landscapes of the North York Moors will be conserved and enhanced. Great weight will be given to landscape considerations in planning decisions and development will be supported where the location, scale and detailed design of the scheme respects and enhances the local landscape character type as defined in the North York Moors Landscape Assessment. Development which would have an unacceptable impact on the natural beauty, character and special qualities of the areas of moorland, woodland, coast and foreshore as defined by the Section 3 Conservation Map or on the setting of the Howardian Hills AONB or local seascape will not be permitted.

Strategic Policy H - Habitats, Wildlife, Biodiversity and Geodiversity

1. The conservation, restoration and enhancement of habitats, wildlife, biodiversity and geodiversity in the North York Moors National Park will be given great weight in decision making.

2. All development and activities will be expected to:

- a) Maintain and where appropriate enhance features of ecological value and recognised geodiversity assets;
- b) 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; and

c) Maintain and where appropriate enhance existing wildlife connections and landscape features such as water courses, disused railway lines, hedgerows and tree lines for biodiversity as well as for other green infrastructure and recreational uses.

3. Development proposals that are likely to have a harmful impact on protected or valuable sites or species will only be permitted where it can be demonstrated that:

a) There are no alternative options that would avoid or reduce the harm to the protected or valuable interest;

b) Suitable mitigation measures to avoid or reduce the harm have been incorporated into the proposals and will be maintained in order to retain their biodiversity or geodiversity benefits;

c) Any residual harmful impacts have been offset through appropriate habitat enhancement, restoration or creation on site or elsewhere; and

d) The wider sustainability benefits of the development outweigh the harm to the protected or valuable interest.

Proposals will be considered in accordance with the following hierarchy:

International Sites and Protected Species:

Proposals that have a likely significant effect on European sites (comprising Special Areas of Conservation, Special Protection Areas and Ramsar sites) will be subject to an Appropriate Assessment in accordance with the Habitats Regulations. Where the assessment indicates that it is not possible to ascertain that the proposal, either on its own or in combination with other plans or projects, would have no adverse effect on the integrity of the site, development will only be permitted in exceptional circumstances where there are no alternative solutions, there is an imperative over-riding public interest and compensation measures are secured. This protection will be extended to proposed or potential European sites and significant weight will be given to this policy in areas where the presence of internationally important features is recognised but no formal designation process has begun.

National Sites and Protected Species:

Proposals that would adversely affect the special interest features of a Site of Special Scientific Interest or National Nature Reserve or the nature conservation interest of a nationally protected species will only be permitted where the benefits of the development clearly outweigh the impact on the protected interest.

Regional and Local Sites and other Valuable Habitats and Species:

Proposals that would adversely affect any locally designated site such as a Local Nature Reserve, Local Wildlife Site, Regionally Important Geological or Geomorphological Site, Sensitive Marine Area, Marine Conservation Zone, or other valuable habitat or species (including Local or National Biodiversity Action Plan priority habitats or species) will only be permitted where the benefits of the development clearly outweigh the impact on the protected interest.

Where a proposed development would attract a significant number of additional visitors to an area or facility, it should be demonstrated how any potential impact upon the area or feature of biodiversity interest will be managed as part of the new development.

The Authority will therefore expect all development proposals to provide appropriate protection for the diverse ecological and geological assets in the National Park and, wherever possible, to incorporate features that will enhance biodiversity, for example, by planting with appropriate native species and providing nesting and roosting opportunities for birds and bats in suitable locations. Applicants should ensure that sufficient information is provided regarding any wildlife sites or species that may be affected by a proposal, seeking qualified advice as appropriate.

Policy ENV1 - Trees, Woodlands, Traditional Orchards and Hedgerows

There will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where a development would result in the unavoidable loss of an existing tree, orchard or hedgerow but the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Development will not be permitted that would lead to loss of or damage to ancient woodland and aged or veteran trees found outside ancient woodland unless there are wholly exceptional reasons and the need for, and benefits of the development in that location clearly outweigh the loss.

Policy ENV8 - Renewable Energy

... The Authority will therefore expect all development proposals to provide appropriate protection for the diverse ecological and geological assets in the National Park and, wherever possible, to incorporate features that will enhance biodiversity, for example, by planting with appropriate native species and providing nesting and roosting opportunities for birds and bats in suitable locations. Applicants should ensure that sufficient information is provided regarding any wildlife sites or species that may be affected by a proposal, seeking qualified advice as appropriate.

All proposals will be expected to incorporate appropriate mitigation measures on site to minimise any unavoidable harm to wildlife and ecological or geological assets. The scale of these measures will depend on the proposal, however the expectation is that any scheme likely to attract significant numbers of visitors (that is of sufficient volume to potentially cause harm to habitats) will need to provide evidence as to how management will avoid or mitigate this potential harm. Agreed mitigation measures may include arrangements for the long-term management of biodiversity enhancements which would be secured through a planning condition. In exceptional cases where it is not possible to incorporate mitigation measures on site, the Authority may consider compensatory measures in an alternative location, secured through a Section 106 legal agreement. Applicants should be aware that some features and habitats, for example veteran trees, ancient woodland and peatlands are by their nature irreplaceable and harm to these assets cannot be mitigated or compensated for and in such cases planning permission will not normally be granted.

DATED

3 Aug

2022

STEVEN DONNELLY

STATEMENT OF TRUTH CONFIRMING USE OF A RIGHT OF
WAY OVER A PRIVATE ROAD

 **birkett's**

birketts.co.uk

I, STEVEN DONNELLY of 7 Didcot Close, Redcar, Cleveland TS10 2XF make this statement to evidence continued use of a right of way:

1. I am a director of the Lickerish Tooth Limited (company number 09322150) which between September 2016 and September 2019 operated a gin distillery as tenant of the property known as Cross Farm Barn, Egton, Whitby, North Yorkshire YO21 1TZ as the same is registered as part of Title Number NYK245709 and is shown edged red on the plan (**Plan**) attached to this statement and marked "ST1" (**Benefiting Land**).
2. A private roadway (**Road**) shown coloured blue passes between the points marked A and B on the plan attached to this statement and marked "ST2". I believe title to the Road is unregistered at HM Land Registry but I understand that the Road may form part of the adjoining Egton Estate owned by Mr and Mrs Foster.
3. The Road runs between the public highway known as Egton High Street and the neighbouring property to the Benefiting Land known as Egton Slaughterhouse, Egton, Whitby registered at HM Land Registry under title number NYK215236. The Road is shown in the Google Street View snapshot from March 2009 attached to this statement and marked "ST3". The Benefiting Land benefits from an express right of way over part of Egton Slaughterhouse and I believe a right of way has been established by long user over the part of the Road which is not registered at HM Land Registry.
4. As tenant of the building forming part of the Benefiting Land for the purpose of carrying on my gin distillery business I continually used the Road as the access to the building and in particular used the Road for deliveries and staff parking. To facilitate my use of the Road and the rear entrance to the building at Cross Farm Barn I constructed stairs and an access from the rear yard to the rear elevation and rear access to the building.
5. I believe my use of the Road was consistent with the use of the Road by previous tenants and I am also aware of continued use by the Mulgrave Estate and their tenants and licensees of the Road to access the garden or paddock area to the rear of the building at Cross Farm Barn which forms part of the Benefiting Land but which was not included in my tenancy.
6. I always used the Road without any force, secrecy or permission and I was not subject to any enforcement action seeking to prevent my use of the Road.

I believe that the facts and matters contained in this statement are true.

Signed .

Print full name: STEVEN DONNELLY

Date: 3/8/22

Mulgrave Estate

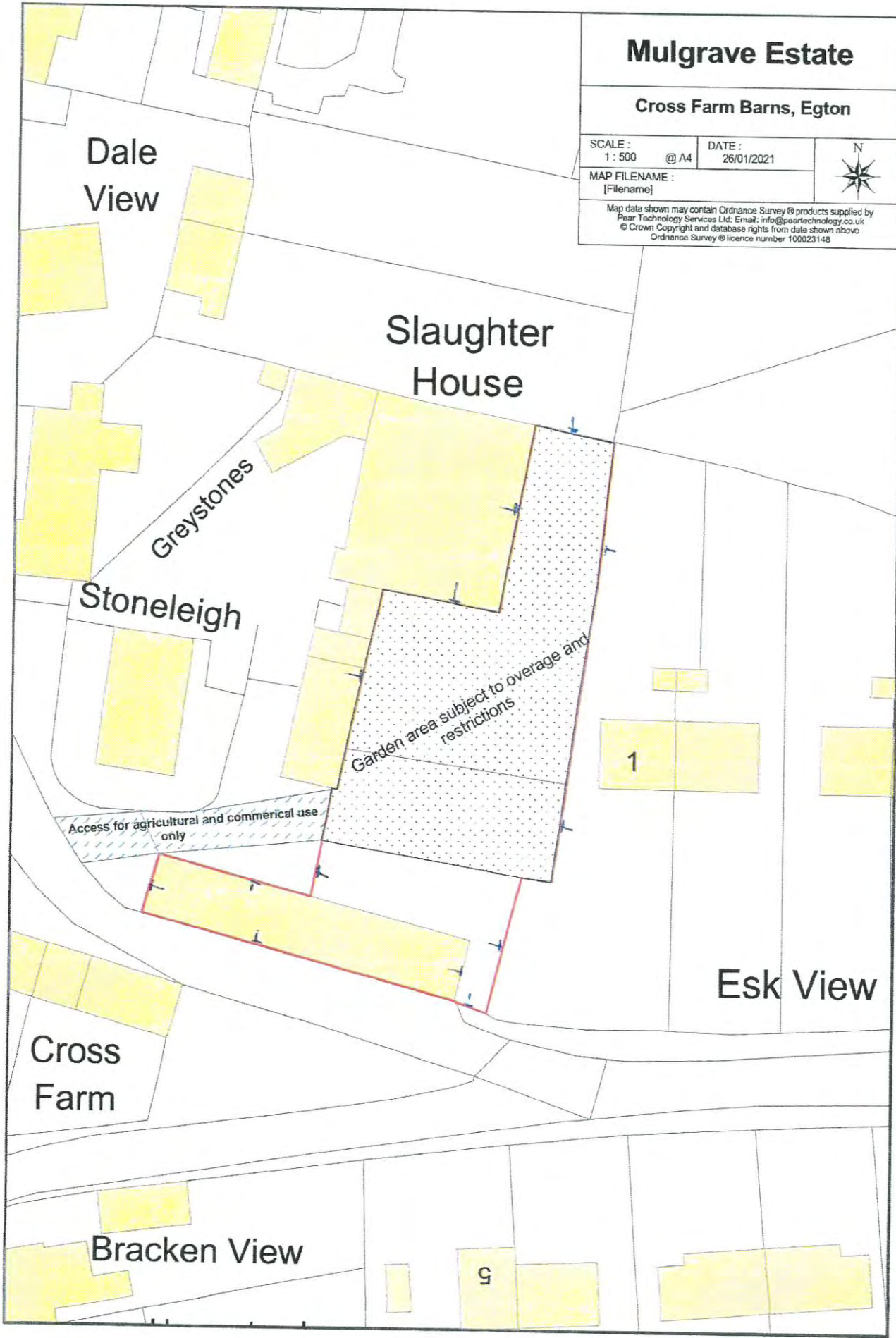
Cross Farm Barns, Egton

SCALE : 1 : 500 @ A4 DATE : 26/01/2021

MAP FILENAME : [Filename]



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Map scale 1:625

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Data last updated 10:00pm 07 JULY, 2021



DATED

29 July

2022

JAMES MORTLOCK

**STATEMENT OF TRUTH CONFIRMING USE OF A RIGHT OF
WAY OVER A PRIVATE ROAD**

I, JAMES MORTLOCK of Laurel House, 10 Wades Lane, East Barnby, Whitby, North Yorkshire YO21 3SB make this statement to evidence continued use of a right of way:

1. I have been employed by The Most Honourable Constantine Edmund Walter ("Lord Normanby") for 51 years in the role of Head Forester and I know Lord Normanby to be the owner of the freehold property known as Cross Farm Barn, Egton, Whitby, North Yorkshire YO21 1TZ and the garden or paddock area to the rear of it as the same are registered as part of Title Number NYK245709 and are shown edged red on the plan (**Plan**) attached to this statement and marked "ST1" (**Benefiting Land**).
2. A private roadway (**Road**) shown coloured blue passes between the points marked A and B on the plan attached to this statement and marked "ST2". I believe title to the Road is unregistered at HM Land Registry but I understand that the Road may form part of the adjoining Egton Estate owned by Mr and Mrs Foster.
3. The Road runs between the public highway known as Egton High Street and the neighbouring property to the Benefiting Land which is known as Egton Slaughterhouse, Egton, Whitby and is registered at HM Land Registry under title number NYK215236. The Road is shown in the Google Street View snapshot from March 2009 attached to this statement and marked "ST3". The Benefiting Land benefits from an express right of way over part of Egton Slaughterhouse and I believe a right of way has been established by long user over the part of the Road which is not registered at HM Land Registry.
4. I am personally aware of the continual uninterrupted use of the Road as access both to the Cross Farm Barn building and the paddock for the following occupiers:
 - From November 1981 to November 1986 by Rupert Mansell who used the premises a clothing design workshop. There were 4 staff employed at the property turning out 100 dresses per week. The access road was used for deliveries and staff parking in the rear yard.
 - From November 1986 to April 2010 by Colin Williamson Productions, who used the premises as a printing works. Deliveries and staff used the access track to park in the rear yard.
 - From April 2010 to April 2012 the property was vacant and advertised as available for rent. The track was still used during this time by the Grazier using the field to the rear of the building.
 - From April 2012 to April 2015 by Mr Godley & Mr Drake as storage for their commercial beehive equipment.

- From May 2015 to August 2016 the property was vacant and advertised as available for rent. The track was still used during this time by the Grazier using the field to the rear of the building.
- From September 2016 to September 2019 by Mr Donnelly as a commercial gin distillery. The track and rear yard were used for deliveries and staff parking.
- Access to the garden, yard & paddock land to the rear of the Cross Farm building was grazed under an unwritten farm business tenancy by Mr John Smith for over 25 years until 12 February 2021 (the grazier). The use of the Road has been continual both on foot and with private motor and commercial vehicles.
- The paddock was under the control of the Estate until April 2021 when it was let under Licence to Mr Cornforth, where the use of the road was as access to the yard and paddock.

5. I am aware that pursuant to the planning consent (reference 4/32/76A/PA) granted on 3 December 1980 for the conversion of the Cross Farm Barn building from agricultural to commercial use the Road was intended to be used as an emergency access only but that has not been the case in practice and I am not aware of any enforcement action having been taken to prevent the continued use of the Road detailed in this Statement. I believe the use of the Road detailed in this Statement has always been exercised without force, secrecy or third party permission.

I believe that the facts and matters contained in this statement are true.

Signed

Print full name: JAMES MORTLOCK

Date: 29 July 2022

Mulgrave Estate

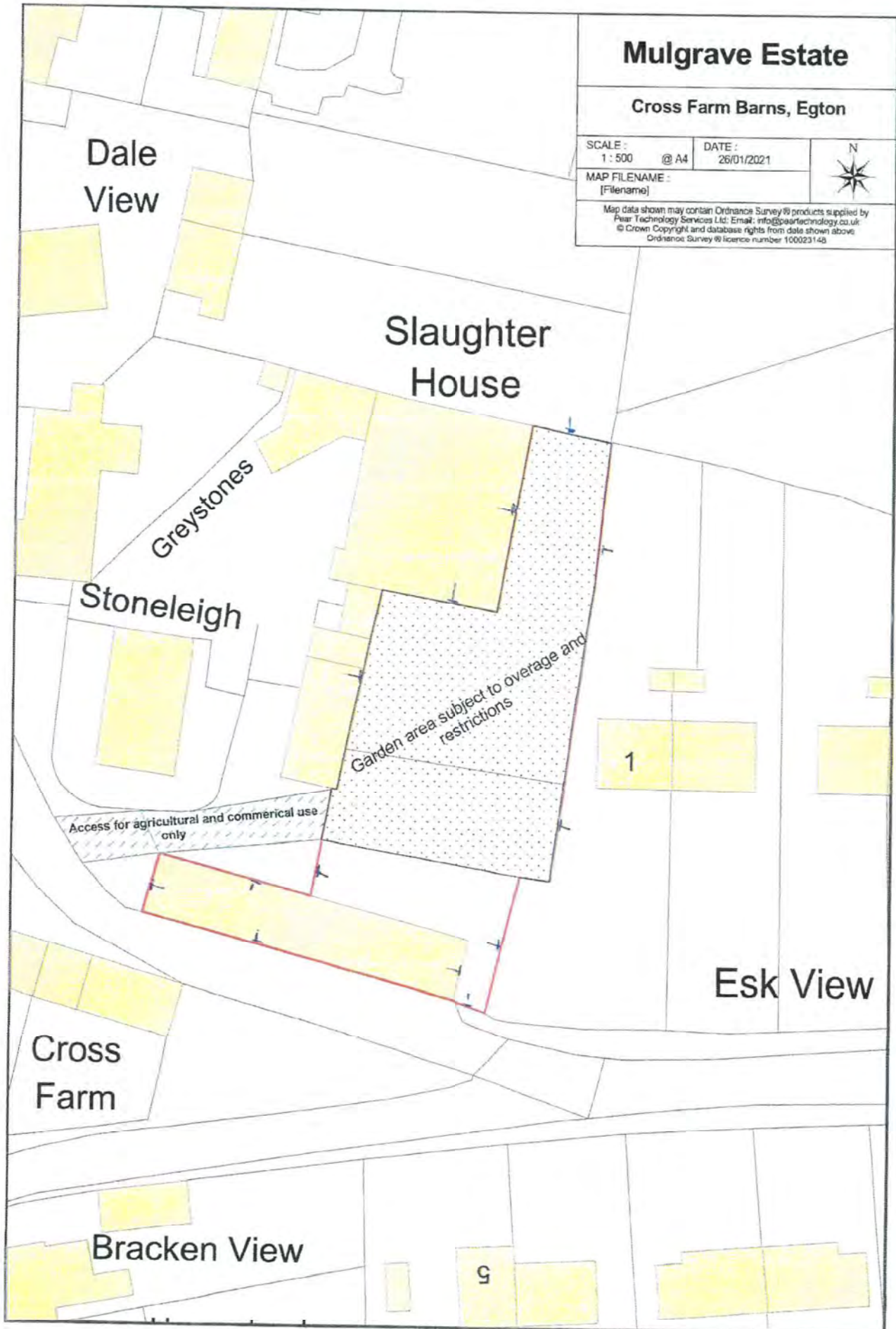
Cross Farm Barns, Egton

SCALE : 1 : 500 @ A4 DATE : 26/01/2021

MAP FILENAME : [Filename]



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