

Agenda Item No. 3.1

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

12 June 2021

Report of the Executive Director – Place

**1 REVOCATION ORDER RELATING TO PLANNING PERMISSION AT
HOE GRANGE QUARRY, BRASSINGTON, DERBYSHIRE**
3.35.0

(1) **Purpose of Report** To seek revised approval from the Committee to the making of an order to revoke planning permissions ASR365/7 and ASR/96512 for Hoe Grange Quarry, Brassington subject to a condition for aftercare, up to 2026.

(2) **Information and Analysis** Approval was obtained from this Committee on 8 April 2019 to proceed with a revocation of mineral planning permissions at Hoe Grange Quarry (Minute No. 22/19 refers). A full description of the site, as well as the reasons for proposing such a revocation order, were set out in the report for that item by the Strategic Director – Economy, Transport and Environment to that meeting, which is appended to the this report for Member's information.

In summary, under the provisions of Schedule 13 of the Environment Act 1995, Hoe Grange Quarry has been categorised as an 'Active Phase 1 Site' and is subject to a Review of Old Mineral Permissions (ROMP) application for the update of conditions which remains 'stalled' and thus undetermined. The quarry is non-operational and is currently managed, with the permission of the landowner Longcliffe Quarries Ltd, by Derbyshire Wildlife Trust (DWT) as the Hoe Grange Nature Reserve. The site, which is particularly notable for butterflies and other invertebrates, is also known to support birds, as well as other species of notable flora and fauna. DWT has a 10-year habitat management plan up to 2026 which seeks to maximise the potential for invertebrates at the site.

The site is located north-west of the village of Longcliffe and is accessed via a track which leads off an unclassified road which runs northwards from Longcliffe crossroads towards Aldwark. The site is surrounded by open agricultural land to the north, east and west, with the High Peak Trail forming the southern site boundary. The site is located in open countryside and is close to the boundary of the Peak District National Park which lies to the north

and west. The nearest residential properties are located to the north on the unclassified highway and include Haven Hoe Farm.

The High Peak Trail Local Wildlife Site (LWS), of interest for its unimproved calcareous and neutral grassland, and a Derbyshire Red Data Book species, Dark Mullein, is immediately adjacent to the southern boundary of the site Management plan. The site itself is identified as the first butterfly reserve in the County.

The Mineral Planning Authority has the power to revoke planning permissions under section 97(1) of the Town and Country Planning Act 1990 ('the Act'), where it appears to the Authority that it is expedient to do so.

Subsection (3) sets out the circumstances in which the power can be exercised, including:

“a) Where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;”

Subsection (6) and Part II of Schedule 5 provide that an order under section 97 may include such aftercare condition as the Mineral Planning Authority thinks fit if (a) it also includes a restoration condition or (b) a restoration condition has previously been imposed in relation to the land.

The previous reporting of this matter, which immediately preceded the resolution of 2019, authorised a revocation order to be pursued with an aftercare condition requirement, was on the basis that the existing DWT 2016 -2026 management plan by the time of the order be revised, including an extension of a further three years, for the plan until 2029. It was considered that the plan as so revised could be incorporated into the aftercare requirement under the revocation order as then anticipated.

The applicant has confirmed that the arrangements with the Wildlife Trust for the management of the site for nature conservation purposes will continue beyond 2029. However, it has not proved possible to secure an update and revision of the existing management plan to utilise for an aftercare condition as was anticipated at the time of the previous reporting in April 2019. It is therefore proposed that a revocation order is now pursued on the basis of including in it an aftercare condition that could utilise the existing management plan, which covers the period between 2016 and 2026.

I am satisfied that this would represent an appropriate and practicable way forward, that would continue to deliver a site suited to nature conservation amenity use through securing substantial biodiversity. Hoe Grange Quarry has effectively been in aftercare (for nature conservation purposes) since 2016. It is now usual for aftercare measures following restoration of mineral sites to be

required by conditions to the planning permissions for periods of five years, though extended aftercare may sometimes be required by planning obligation.

(3) **Financial Considerations** There is no fee associated with the proposed revocation order. Compensation is generally payable to landowners in respect of any loss of land value from revocation of planning permissions. In this instance, the order is being sought at the request of the landowner who has indicated that it will not claim compensation.

(4) **Legal Considerations** The confirmation of a revocation order will permanently extinguish the planning permissions to which it relates, so that the winning and working of minerals can no longer take place in accordance with those permissions. To the extent that it might engage interference with the rights of the owner under Article 1 of the First Protocol of the European Convention on Human Rights, it is a justified and proportionate means of achieving the legitimate aim of planning in the public interest.

(5) **Environmental and Health Considerations** As indicated in the report.

(6) **Other Considerations**

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(7) **Background Papers** File No.3.35.0

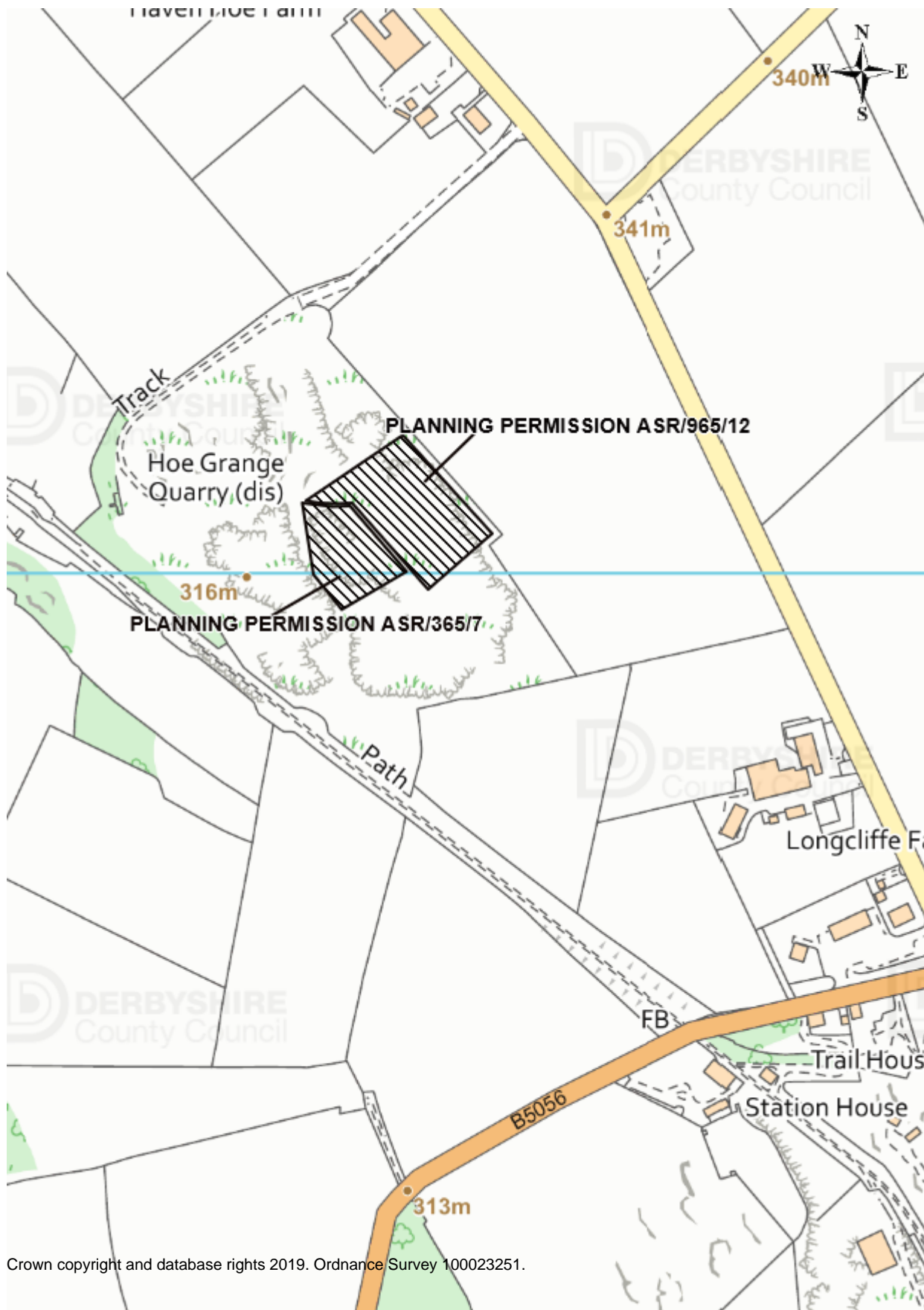
(8) **OFFICER'S RECOMMENDATIONS** That the Committee resolves to authorise:

7.1 The making of a revocation order under Section 97 of the Town and County Planning Act 1990 to revoke planning permissions ASR365/7 and ASR/96512 to win and work dolomite, limestone and associated minerals at Hoe Grange Quarry, Brassington subject to a condition to require nature conservation, aftercare following consultation with the landowner as to the content of the order and condition, and confirmation by landowner that it relinquishes any entitlement to compensation under the Act as a result of the order being made.

7.2 Confirmation of the order so made in the event of no objections being received from anyone with an interest in the land.

Chris Henning
Executive Director – Place

PROPOSED REVOCATION ORDER AT HOE GRANGE QUARRY, ALDWARK



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5-March-2019

DERBYSHIRE COUNTY COUNCIL
REGULATORY - PLANNING COMMITTEE

8 April 2019

Report of the Strategic Director – Economy, Transport and Environment

**4 REVOCATION ORDER RELATING TO PLANNING PERMISSION AT
HOE GRANGE QUARRY, BRASSINGTON, DERBYSHIRE**

3.35.0

(1) **Purpose of Report** To seek approval from the Committee to enable the Council, as Mineral Planning Authority, to make an order to revoke planning permissions ASR365/7 and ASR/96512 for Hoe Grange Quarry, Brassington.

(2) **Information and Analysis** Hoe Grange Quarry, which has a surface area of 4.75 hectares (ha), is north-west of the village of Longcliffe and is accessed via a track which leads off an unclassified road which runs northwards from Longcliffe crossroads towards Aldwark. The site is surrounded by open agricultural land to the north, east and west, with the High Peak Trail forming the southern site boundary. The site is located in open countryside and is close to the boundary of the Peak District National Park which lies to the north and west.

The site is characterised by areas of bare ground, calcareous grassland, tall herb/ruderal grassland, exposed rock faces, a disused dew pond and broadleaved woodland.

The nearest residential properties are located to the north on the unclassified highway and include Haven Hoe Farm.

There are no statutory or non-statutory built heritage or nature conservation designations within the site, although there are a number close by. Aldwark Conservation Area is 1.15 kilometres (km) to the north-east. Three grade II listed buildings (a milestone, a railway bridge and Longcliffe Station) are approximately 225 metres (m) to the south at Longcliffe. Further groupings can be found at Aldwark (three grade II listed farmhouses and farm buildings) to the north-east. The High Peak Trail Local Wildlife Site (LWS), of interest for its unimproved calcareous and neutral grassland, and a Derbyshire Red Data Book species, Dark Mullein, is immediately adjacent to the southern boundary of the site Management plan.

Hoe Grange Quarry is subject to two planning permissions (code numbers ASR/365/7 and ASR/965/12) for the winning and working of dolomite, limestone and associated minerals. Mineral extraction at the site is known to have taken place since the first half of the twentieth century, the two planning permissions granted during the 1960s seeking to recommence working in previous working areas, with any overburden and mineral stock piles being located within the wider historic quarry workings. The historic quarry workings also cover a far wider area than that covered by the two planning permissions, which combined only occupy approximately a third of the overall site. No quarrying operations have taken place at the site since approximately 1990.

Hoe Grange Quarry was identified as an 'Active Phase I Site' in the Council's Environment Act 1995, Section 96 and Schedule 13 Review of Mineral Planning Permissions 'First List of Sites', which was produced in 1996. Schedule 13 of the Environment Act 1995 required that all active first list sites were subject to an Initial review of Old Mineral Permissions (ROMP) for the update of conditions. Whilst the then owner of the site did submit information to the Council in January 1999, it was not considered sufficient to enable the application to proceed. The Initial Review application is therefore considered to be 'stalled' and remains undetermined.

In the intervening period between the submission of the ROMP and the present day, the current landowner has considered a number of alternative schemes for the restoration and subsequent use of the site. However, due to the open countryside location, the high sensitivity of the surrounding landscape and the adjacent High Peak Trail, these schemes were not progressed. The landowner has recently allowed Derbyshire Wildlife Trust to manage the site as the Hoe Grange Nature Reserve. The site, which is particularly notable for butterflies and other invertebrates, is also known to support birds, as well as other species of notable flora and fauna. Following a Phase 1 Habitat Survey, undertaken in 2010, a 10 year Habitat Management Plan (2016-2026) has been drawn up by Derbyshire Wildlife Trust which seeks to maximise the potential for invertebrates at the site.

Long term management of the site would result in significant biodiversity gain in respect of invertebrates, as well as its visually sensitive location in open countryside, close to the High Peak Trail and the Peak District National Park.

Revocation Orders

The Mineral Planning Authority has the power to revoke planning permissions under Section 97(1) of the Town and Country Planning Act 1990 ('the Act'), as amended, where it appears to the Authority that it is expedient to do so. Section 97 enables planning authorities to revoke a planning permission to such an extent as they consider expedient.

Subsection (3) sets out the circumstances in which the power can be exercised, including:

“a) Where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;”

Subsection (6) and Part II of Schedule 5 provide that an order under Section 97 may include such aftercare condition as the Mineral Planning Authority thinks fit if (a) it also includes a restoration condition or (b) a restoration condition has previously been imposed in relation to the land.

Section 99 of the Act provides that the Authority must notify the Secretary of State of an order that has been made and that as long as no objections are made by those with an interest in the land, the order can be confirmed by the Authority.

Despite the current active management of the site for the benefit of invertebrates by Derbyshire Wildlife Trust, there is always the potential that ownership of the site could change and mineral extraction operations recommence. Under those circumstances, I consider that a revocation order in relation to planning permissions ASR/365/7 and ASR/965/12 would provide additional protection against reactivation of the Hoe Grange Quarry development.

Any further development of the site would be likely to damage or destroy its wildlife habitats, as well as harm the visual amenity of the surrounding area and the character of the National Park. In this instance, making a revocation order to extinguish the permissions is also considered to be an appropriate demonstration of the Council's commitment to the protection of the amenities of the area and in respect of biodiversity gain.

I am, therefore, of the view that it is expedient to issue a revocation order in respect of the planning permissions using powers under Section 97 of the Act.

Planning permissions ASR/365/7 and ASR/965/12 are both subject to planning conditions requiring tree planting to be undertaken as part of wider restoration/site improvement works. Whilst it is understood that some tree planting was undertaken soon after the planning permissions were implemented, the overall planting requirements were never completed. I would, therefore, also recommend that any revocation order includes an aftercare condition. In this respect, I note that, with the agreement of Longcliffe Quarries Ltd, the site is currently in the management of Derbyshire Wildlife Trust. As stated above, such management is currently undertaken in accordance with the Hoe Grange Nature Reserve Management Plan (2016-2026). I am satisfied that this Management Plan would be acceptable as the basis for the requirements of the aftercare condition, but would recommend that its lifespan be extended for a further three years to end in 2029. This would equate with a 10 year aftercare period as would normally be expected following the restoration of a mineral site.

(3) **Financial Considerations** There is no fee associated with the proposed revocation order. Compensation is generally payable to land owners in respect of any loss of land value from revocation of planning permissions. In this instance, the order is being sought at the request of the landowner who has indicated that it will not claim compensation.

(4) **Legal Considerations** The confirmation of a revocation order will permanently extinguish the planning permissions to which it relates, so that the winning and working of minerals can no longer take place in accordance with those permissions. To the extent that it might engage interference with the rights of the owner under Article 1 of the First Protocol of the European Convention on Human Rights, it is a justified and proportionate means of achieving the legitimate aim of planning in the public interest.

I do not consider that there would be any impacts on anyone's human rights under the European Convention on Human Rights as a result of the confirmation of the revocation order.

(5) **Environmental and Health Considerations** As indicated in the report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

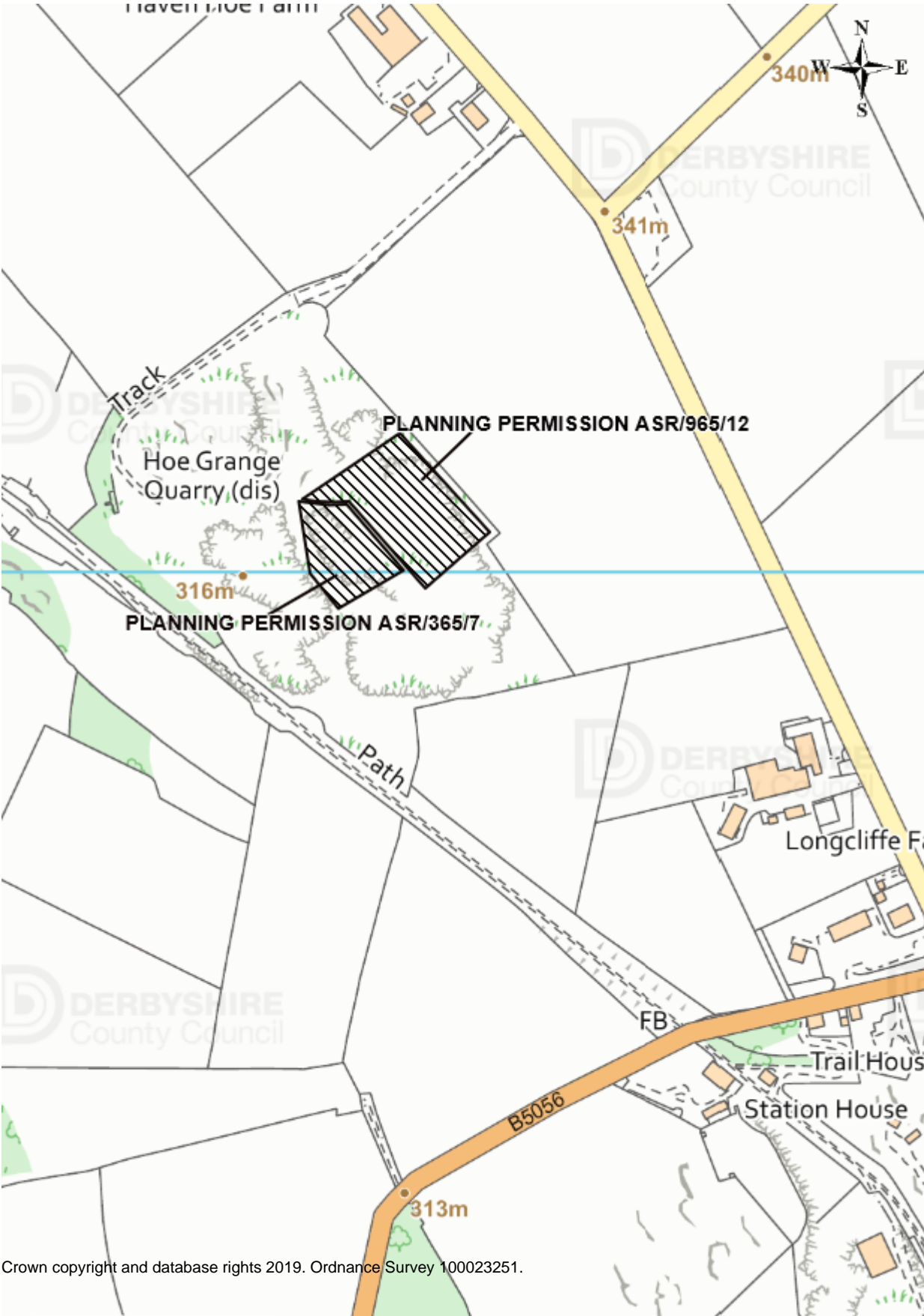
(6) **Background Papers** File No.3.35.0
None.

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves to **authorise:**

- 7.1 The making of a revocation order under Section 97 of the Town and County Planning Act 1990 to revoke planning permissions ASR365/7 and ASR/96512 to win and work dolomite, limestone and associated minerals at Hoe Grange Quarry, Brassington subject to aftercare condition provided that the landowner has agreed to the content of the order, with confirmation that it will not seek compensation as a result of the order being made.
- 7.2 Confirmation of the order so made in the event of no objections being received from anyone with an interest in the land.

Mike Ashworth
Strategic Director – Economy, Transport and Environment

PROPOSED REVOCATION ORDER AT HOE GRANGE QUARRY, ALDWARK



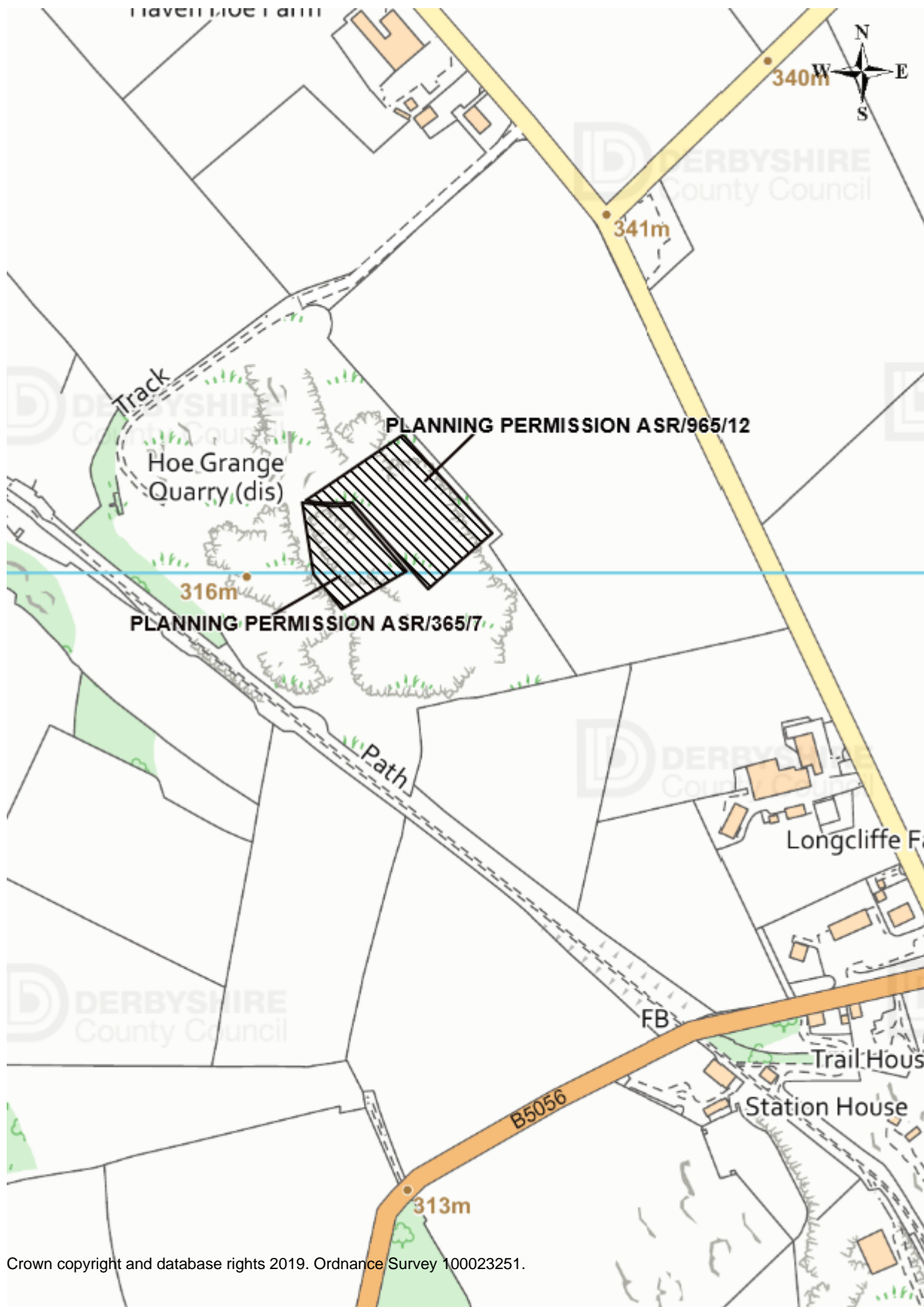
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