

Agenda Item No. 4(a)

**DERBYSHIRE COUNTY COUNCIL**

**MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND  
INFRASTRUCTURE**

**4 October 2016**

Report of the Strategic Director – Economy, Transport and Communities

**ENFORCEMENT ACTION UNDER THE PROVISIONS OF THE HIGHWAYS  
ACT 1980, SECTION 143 - REMOVAL OF STRUCTURES FROM THE  
PUBLIC HIGHWAY AT BACK DALE QUARRY, HASSOP ROAD, HASSOP**

(1) **Purpose of Report** To seek the Cabinet Member's approval to commence enforcement action under Section 143 of the Highways Act 1980 for the removal of structures from the public highway at Back Dale Quarry, Hassop Road, Hassop.

(2) **Information and Analysis** Back Dale Quarry is on the B6001, Hassop Road between Hassop and Calver, and has a longstanding access onto the road. The access was formed by dry stone walls either side, large stone gate posts and metal posts and gates within the site. The site was heavily screened from the road by trees.

In May 2015, it was noticed that the fronting wall to the northern side of the access had been taken down and was being rebuilt further forward and potentially encroaching onto public highway. Further investigation revealed that trees had been removed from within the property and walls to both sides of the access had been rebuilt. The wall to the south of the access has been built on the same line as the previous one and is on the boundary of private land and not on public highway. The wall to the north is further forward than the previous alignment and has been built on public highway. This can be seen by the highway gully (drain) that would have been under the wall if building had continued and is backed up when considered against historical plans.

Location plans and photographs of the obstruction are attached to this report.

A site meeting involving Derbyshire County Council, as Highway Authority, and a representative of the property owner was held in June 2015. The representative conceded the wall had been built on highway and asked about the possibility of it remaining in place and being licensed by Derbyshire County Council under the Highways Act 1980. Legal advice informed that

licensing was not an option and this was confirmed in writing to the representative on 6 July 2015. He was further instructed that the wall required removing from the highway.

On subsequent inspections, it was noted that the wall still remained on the highway and further written requests for removal were sent in November and December 2015, and again in March and May 2016. On each occasion assurances were forthcoming that action would be taken but the wall still remains in place.

It is therefore proposed to initiate enforcement action under Section 143 of the Highways Act 1980, to serve a formal notice for the removal of the obstruction. If this does not happen, the County Council can carry out the action and recover its costs in doing so.

(3) **Financial Considerations** The Council will seek to recover the cost of any works executed by the Council in default of the notice from the perpetrator.

(4) **Legal Considerations** Derbyshire County Council, as Highway Authority, has a duty to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the Highway Authority under Section 130 of the Highways Act 1980.

Section 143 of the Highways Act 1980 contains a power for the Council, as Highway Authority to serve a formal notice for the removal of a structure on the highway. The definition of a 'structure' under the Act can include any object which is capable of causing an obstruction and includes a structure which is on wheels. If the structure is not removed, the County Council may remove it and recover the reasonable costs of removing the structure from the person having control or possession of the structure.

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

(5) **Key Decision** No.

(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details – Glyn Dutton, extension 38636.

(8) **OFFICER'S RECOMMENDATION** That the Cabinet Member authorises the appropriate legal enforcement action being taken by the Director of Legal Services to remove the structure from the highway at Back Dale Quarry, Hassop Road, Hassop.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Communities**

Back Dale Mine, Hassop Location Plan



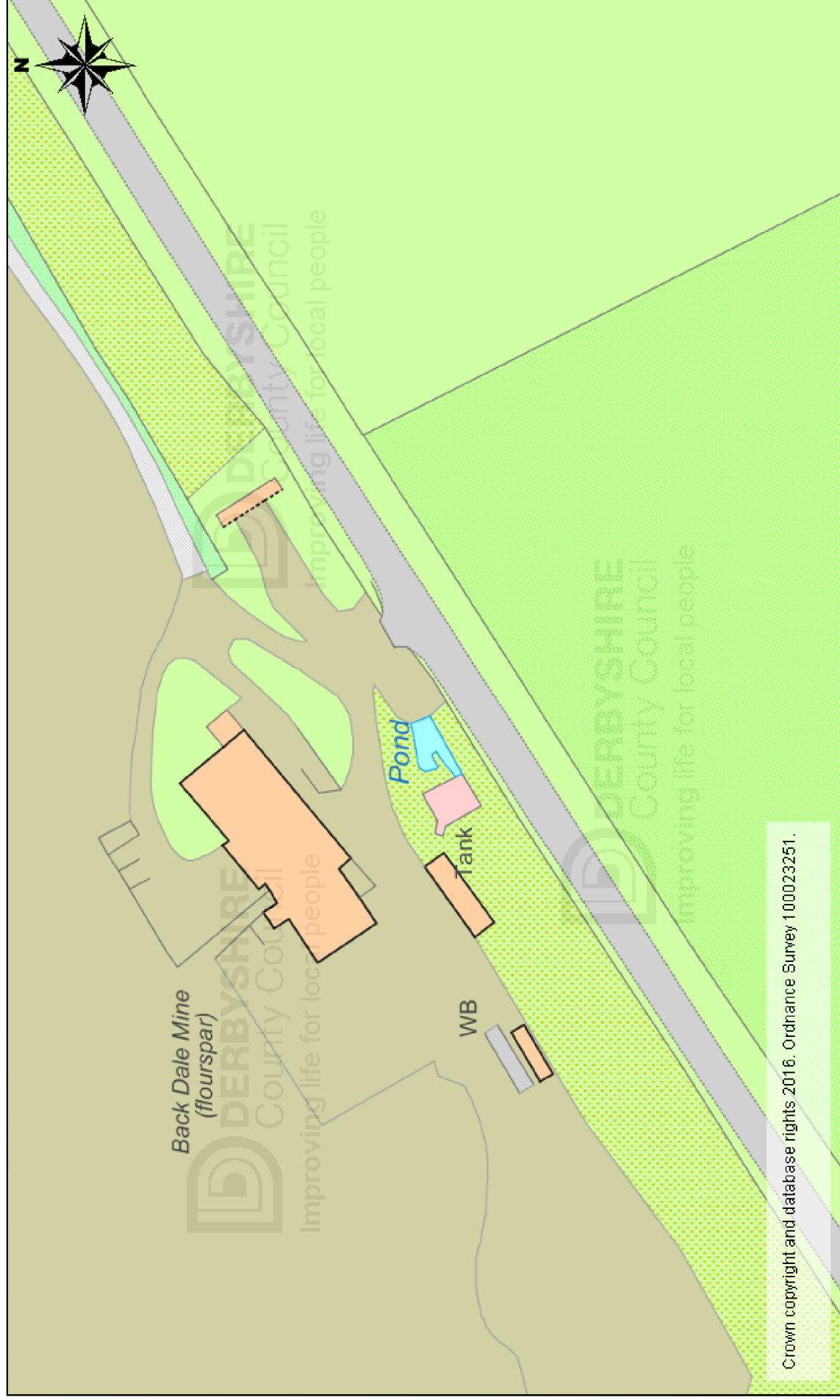
0 km 1 km 2 km

06-Sep-2016

Scale 1 : 38536



# Back Dale Mine, Hassop Road, Hassop



0 m 35 m 70 m

06-Sep-2016

Scale 1 : 1204