

AGENDA ITEM No. 3

MINUTES

<u>Meeting:</u>	National Park Authority Special Meeting
<u>Date:</u>	18 September 2009
<u>Venue:</u>	The Conference Room, Agricultural Business Centre, Bakewell
<u>Chair:</u>	Mr N Bajaria
<u>Present:</u>	Mrs A Ashe, Clr T Bagshaw, Clr Mrs J Bevan, Mr C J Bowell, Clr A Favell, Clr Mrs H M Gaddum, Prof J Herbert, Ms S Leckie, Clr C McLaren, Clr A Marchington, Mr G Nickolds, Mrs K Potter, Mr R Priestley, Clr G Purdy, Mrs L C Roberts, Clr Mrs J A Twigg, Clr E Wain, Clr Mrs D Ward, Clr Mrs J Wharmby.
<u>Apologies for absence:</u>	Miss P Beswick, Mr C Carr, Dr R Clarke, Ms P Coleman, Mr C Pennell, Clr Mrs C G Heath, Clr Mrs D Wilde.

STRATEGY & DEVELOPMENT

66/09 4.1 APPLICATION FOR PLANNING PERMISSION FOR PROPOSED EXTRACTION OF FLUORSPAR ORE AND ASSOCIATED VEIN MINERAL BY OPEN PIT METHODS FROM AN EXTENSION TO THE WORKINGS AT TEARSALL, SOUTH DARLEY (NP/DDD/0208/0104, MIN10213, 30/01/08, 426201/360188)

The following Members declared personal interests in this item:

Clr Mrs J Bevan	Knows Mr Folkard one of the speakers.
Prof J Herbert	E-mail correspondence on Backdale in 2007 with SLEG one of the objectors and in relation to a complaint on another planning matter by Dr Furness, one of the speakers. He had retained an open mind on this application.
Mrs K Potter	Member of English Heritage, CPRE & RSPB. She had also attended meetings of Curbar and Calver Parish Councils but had not discussed the application.
Clr R Priestley	Proprietor of a haulage business not related to the application.
Clr G Purdy	Member of Derbyshire County Council.
Clr Mrs J Twigg	Member of Derbyshire County Council.
Clr Mrs J Wharmby	Member of Derbyshire County Council.

It was reported that some Members had received e-mail correspondence about the application.

A Supplementary report was tabled that detailed representations that had been received since publication of the main report. It was reported that a letter had been received from the Chair of Curbar Parish Council recommending approval of the application.

At the Authority meeting on 30 January 2009, the Authority resolved to approve the above application, subject to the Secretary of State (CLG) being informed that the Authority is minded to approve the application as a departure from the development plan, and subject to the prior completion of a S106 legal agreement (Minute 1/09). The terms of the agreement covered planning gain, including an offer by the applicant not to work 105Ha of land, commonly referred to as Peak Pasture, on the eastern end of Longstone Edge for a temporary minimum period of four years. This land, together with areas known as Backdale, Wagers Flat and Beacon Rod, make up the 1952 planning permission on which there was a disputed legal interpretation as to the extent of working that could take place.

Since that meeting the Court of Appeal has upheld the Authority's enforcement action alleging unauthorised winning and working of limestone beyond the scope of the 1952 permission at Backdale, and confirmed a narrow interpretation of the 1952 permission. The House of Lords refused to hear a further appeal against the interpretation.

The Secretary of State (CLG) has advised that she did not consider it necessary to intervene and the Authority could decide the application.

As some of the details of the S106 legal agreement had not yet been finalised a planning permission decision notice had not been issued. In view of the standing of the Court of Appeal's interpretation of the extent of the 1952 permission and that a decision notice had not yet been issued, it was considered appropriate to refer the matter back to the Authority meeting to ask whether it wished to re-confirm its resolution of 30 January 2009. The key issue was whether the Court of Appeal decision had the effect of altering the value of the planning gain sufficient to warrant a re-consideration of the proposal.

Whilst the Court of Appeal judgment has provided an interpretation of the 1952 permission, the permission still allows the working of fluorspar and limestone won in the course of working the fluorspar (subject to the terms specified by the Court of Appeal judgment) anywhere over the 1952 permission area. The scale and extent of the working and the number of separate excavations that could be established at any given point in time could give rise to serious and significant cumulative environmental and amenity impacts. By comparison the proposed working at Tearsall would be fully restored progressively and would only permit the working of fluorspar ore.

Officers advised that the offer to suspend working for a minimum of four years to enable the stalled mineral review process to be concluded and/or to pursue a permanent solution such as a buy-out/revocation order remained a significant and a substantive planning gain.

The following made representations to the meeting under the Public Participation Scheme:

Mr J Lambert, Chairman of Save Longstone Edge Group (SLEG), objector.

Mr J Harris, objector.

Dr Furness, Independent Ecological Consultant, objector.

Mr H Folkard, British Mountaineering Council, objector.

Mr D Gregory, resident and objector.

Mr P Chambers, Save Wensley Hillside Action Group, objector.

Ms S Dakin, resident and objector.

Mr D Maguire, resident and objector.

Ms J Wayman, resident and objector.

Mr G Goodyear, Ineos Fluor supporting the application.

Mr C White, Glebe Mines supporting the application.

In debating the issues regarding the application Members paid particular attention to the changed circumstances regarding the significance of the planning gain now offered following the Court of Appeal's narrower interpretation of the 1952 permission.

Motion

A Motion to refuse the application for the reasons set out in at Paragraph 11.7 in Appendix 1 of the report was moved and seconded.

On being put to the vote the Motion was lost.

Motion

A Motion to re-affirm the decision of the Authority meeting held on 30th January 2009 to approve the application was moved and seconded.

On being put to the vote the Motion was carried.

RESOLVED

That the Authority re-affirms its decision to approve the Tearsall application (ref NP/DDD/0208/0104) subject to the signing of a S106 legal agreement and subject to conditions as set out in Minute 1/09 of the Authority meeting.

The following Members requested that their vote against approval of the application be recorded in the Minutes:

Prof J Herbert

Mrs K Potter

The meeting closed at 12.45 pm.