

**PEAK DISTRICT NATIONAL PARK AUTHORITY**

Town & Country Planning Act 1990

Environmental Impact Assessment (England and Wales) Regulations 1999 as amended

Peak District National Park Authority (Deep Rake, Hassop (Longstone Edge East))

Prohibition Order 2013

PINS REFERENCE NPCU/PROH/M9496/73265

**STATEMENT OF CASE****Introduction**

1. This Statement of Case has been prepared on behalf of the Peak District National Park Authority, as Minerals Planning Authority, in support of the confirmation of a prohibition order (Peak District National Park Authority (Deep Rake, Hassop (Longstone Edge East) Prohibition Order 2013) (“the Prohibition Order”) under section 102(8) and Schedule 9 of the Town and Country Planning Act 1990 (“the Act”) made on 23<sup>rd</sup> December 2013, prohibiting the resumption of development consisting of the winning and working of minerals or the depositing of mineral waste anywhere in, on or under the land at Deep Rake, Hassop (Longstone Edge East) Derbyshire (“the Site”) as shown outlined in red on Plan A attached to the Prohibition Order.

2. Under paragraph 4 of Schedule 9 of the Act, the order shall not take effect unless confirmed by the Secretary of State.

3. On 17<sup>th</sup> January 2014 representations were made to the Secretary of State by John Church Planning Consultancy Limited on behalf of Bleaklow Industries Limited (who themselves act as agent for British Fluorspar Limited) objecting to the Prohibition Order and seeking a hearing.

4. Notice was given by the Secretary of State for Communities and Local Government of his decision to hold a public local inquiry into the Prohibition Order.

5. The Authority will work with the objectors to agree a statement of common ground. The Authority reserves the right to supplement or add to this statement of case.

#### Location and Setting of the Site

6. The land subject to the Prohibition Order amounts to 138 ha. The land is located on the eastern end of Longstone Edge in the Peak District National Park. The land falls into a number of different Parishes:

Great Longstone CP

Calver CP

Hassop CP

A location plan is annexed to this statement.

This statement also refers to two other quarrying sites within the Peak District National Park of which **Tearsall** is a quarry at Bonsall Moor, near Matlock, Derbyshire and **Winster** is a quarrying site at Winster, near Matlock.

7. Ownership details for Longstone Edge East are as follows:

Bleaklow Industries Ltd (**Bleaklow**) owns the freehold land except a small area west of Backdale and own the mineral rights south of Bramley Lane.

Coverland UK Ltd (**Coverland**) purchased Bleaklow in 2012 together with assets, including the land that it owned which was subject to the 1952 permission. The name Bleaklow Industries Ltd was retained.

RMC Roadstone Ltd – Eastern (**RMC**) were the previous leaseholders of land owned by Bleaklow.

British Fluorspar Limited (**BFL**), who acquired the interests formerly held by Glebe Mines Ltd (**Glebe**), owns the vein mineral rights, and the limestone disturbed whilst working the vein minerals, to the north of Bramley Lane and a limited area to the south of Bramley Lane. Glebe were subsequently acquired by Ineos Fluor (**Ineos**) but the company name of Glebe was retained.

Laporte Minerals (**Laportes**) were predecessors of Glebe Mines in terms of their mineral and property interests.

The surface of a small area to the west of Backdale is owned by the Bolland family (**the Bolland family**). Bleaklow own the mineral rights in this land.

### Planning Context

8. Planning permission reference 1898/9/69 (“the 1952 permission”) for Deep Rake, Hassop (Longstone Edge East) was granted in 1952, by the Minister of State of Housing and Local Government, for the winning and working of fluorspar and barytes and for the working of lead and any other minerals won in the course of working these minerals and the deposit of mineral waste from that area. The permission originally covered around 155 hectares.

9. The permission area was reduced in 2004 by the revocation of part of the 1952 permission and other old mineral permissions included within the Longstone Edge Review of Old Mineral Permission (ROMP) area, as part of a consolidating permission.

The unrevoked part of the 1952 permission area, now referred to as Longstone Edge East, amounts to 138ha, and is subject to the stalled ROMP.

10. Relevant Planning applications:-

- A consolidating application by Glebe in 2001 stated that it was being submitted to establish an updated scheme of working for the total vein mineral future of Glebe Mines on

Longstone Edge and made no reference to working its mineral interests in the eastern end of Longstone Edge.

- In connection with a permission in 2003 for fluorspar extraction at Winster, Glebe agreed, in a planning agreement, to relinquish the rights in the 1952 Longstone Edge permission to work the vein mineral, and other mineral (limestone) disturbed, within its entire mineral interest area (105ha) of Longstone Edge East. The permission was the subject of a legal challenge by Bleaklow. The High Court upheld the challenge, quashed the planning agreement with immediate effect and allowed working to continue for a further 6 months from the 29 November 2006.
- In an application in 2008 for fluorspar extraction at Tearsall, Glebe (which had recently been acquired by Ineos) offered not to exercise its rights to extract minerals (vein minerals and limestone disturbed) from the Peak Pasture area contained within Longstone Edge East for a minimum period of 4 years from the granting of the Tearsall planning application.

#### The ROMP scheme and history

11. A ROMP application for determination of conditions under Schedule 13 of the Environment Act 1995 (**the ROMP application**) - which included the review of the old mineral permission originally granted in 1952 - was submitted in March 1997. RMC was the applicant. The application included a submission for working which was made jointly with Laportes.

12. No Environmental Statement was provided with the ROMP application since at that time the mineral review Regulations did not require one to be submitted. Subsequently, case law held that ROMP applications should be accompanied by an Environmental Statement where the development had a significant impact on the environment. In view of this, the Authority asked the applicant for an Environmental Statement but RMC declined to provide one.

13. The Authority determined the ROMP application without an Environmental Statement in order to avoid a deemed approval of the submitted scheme. The determination included a curtailment of the extent of working at Peak Pasture based on the Authority's interpretation of what mineral working the 1952 permission allowed. Bleaklow (as a freehold owner but not the ROMP applicant) challenged this determination through judicial review proceedings in the High Court. Bleaklow's challenge was successful, the Authority's determination was quashed and the matter remitted back to the Authority to be re-determined.

14. RMC, the named ROMP applicant, did not provide any environmental information and ceased working at the site in 1998. Some environmental information was submitted on behalf of Bleaklow in July 2000, but the Authority declined to accept it as a formal submission because Bleaklow was not the ROMP applicant. The Authority could not re-determine the application until the information was received from the applicant. The ROMP application became a stalled ROMP application.

15. On 2 July 2003 the Authority received notice from RMC stating:

"Bleaklow and their advisors are pursuing the [ROMP] application acting as agent for RMC ..... The application is therefore moving forward in the RMC name with this Company's authority although RMC have declared that it will not operate the quarry if successful and it no longer has any legal interest in the site. ....further questions related to the application should therefore be directed at Bleaklow."

16. A new mineral operator started extracting limestone from Backdale in July 2003 and later at Wagers Flat, both areas lying within the area covered by the ROMP application. The Authority considered that the 1952 planning permission did not allow for the extraction of limestone as the primary purpose of operations and therefore that the operations were unlawful. The Authority first took enforcement action in 2004, and between then and 2009, Bleaklow and the Authority were involved in planning enforcement appeals through public inquiries and the courts.

17. In August 2008 the EIA Regulations were revised with the purpose of ensuring that ROMP applications which were stalled for lack of environmental information could be determined. The Authority sent a notice to Bleaklow, requiring the submission of additional information to enable the Authority to carry out a screening opinion. A copy was also sent to Glebe because of its mineral interests in the land. Extensions of time in which to provide the information were agreed by the Authority, pending resolution of Bleaklow's legal challenges which followed the Authority's enforcement action against the unauthorised winning and working of limestone at Backdale. Bleaklow's challenge was eventually unsuccessful.

18. The Authority set 31 October 2010 as the final deadline for submitting the information required to carry out a screening opinion. Bleaklow failed to provide any of the required information by that deadline, or since. On the 29 October 2010, some information was submitted to the Authority by Glebe. This information was insufficient for EIA purposes, but in any event, Glebe was neither the named ROMP applicant, nor its agent, and the Authority has always advised that it did not consider Glebe is entitled to pursue the application.

19. In December 2010 solicitors acting for Glebe wrote to the Authority giving reasons why their client should be treated as the applicant for the ROMP application. They referred to Paragraph 3(13) of the guidance which says that where an original applicant has been superseded, the operator which succeeds them can take the ROMP application forward to determination. Glebe was the successor to Laportes who were not the named ROMP applicant, therefore they were not considered by the Authority to be able to take the ROMP forward as an applicant. The Authority responded in a letter dated 6 January 2011 setting out its position, including what evidence was considered necessary to enable the Authority to treat Glebe as the ROMP applicant. No response was received and neither did Glebe provide any additional environmental and other information.

20. Since all the necessary information required to carry out a screening opinion was not provided, the permission went into automatic suspension on 1 November 2010.

21. The period of automatic suspension could only have been lifted once the Authority received all the environmental and other information it considered to be sufficient to enable the ROMP submission to be determined.

### **Matters for Consideration**

#### The Prohibition Order

22. The Authority will show that **in the two years prior to the making of the Prohibition Order, winning and working of minerals permitted under the 1952 planning permission did not take place “to a substantial extent”**.

23. The Authority has drawn on information and photographs on the Authority’s files and provided by parties with an interest in the mineral rights, through the ROMP process, in planning applications and in the course of legal cases relating to the site. The Authority has also previously employed geotechnical specialists Geoffrey Walton Partnership (**GWP**) to assess the working methods, stability and geological reserves within the Longstone Edge East permission area.

#### The Bleaklow Land

24. RMC, the named ROMP applicant, ceased working at the site in 1998.

25. On 2 July 2003 the Authority received notice from RMC to the effect that RMC would not operate the quarry if the ROMP application was successful and it no longer has any legal interest in the site.

26. A new mineral operator started extracting limestone from Backdale in July 2003 and later started extracting minerals at Wagers Flat, both areas lying within the area covered by the ROMP application. The extraction ceased at Wagers Flat during 2007. Extraction

continued for a period at Backdale until the matter of the enforcement action was determined by the Court of Appeal in 2009 when the enforcement notice was upheld and the Court determined that there were limits on the amount of limestone that could be removed and sold in the course of winning and working the fluorspar and barytes under the permission.

27 The mineral operator then ceased mineral working at, and subsequently left, the site, the rights to mineral working reverting to Bleaklow.

28. Subsequently, since August 2009, there has been no working of mineral, and no appropriate environmental and other information, required under the regulations sufficient to progress the ROMP, has been provided for that part of the site.

#### The BFL Land

29. With respect to the area within the 1952 permission subject to the Prohibition Order and where BFL's mineral interests lie, no working has taken place since the late 1980's, when working took place by the then Bleaklow Mining Co Ltd within some of the veins (part of Catlow Rake, Dog Rake and Red Rake) in the Peak Pasture area.

30. By the late 1980's Laportes had ceased opencast working in the eastern end of Longstone Edge and were carrying out restoration works. Underground working was continuing to take place using the access from Sallet Hole adit entrance into Deep Rake, heading westwards for extraction within High Rake and Bow Rake at the western end of Longstone Edge. The plans submitted in the ROMP also showed that Laportes was proposing to work only two limited areas in Longstone Edge East, namely Unwin Vein and the western end of Red Rake. Laportes did not undertake any working in these areas between 1997 and 1999.

31. Laportes' interest was acquired by Glebe Mines in 1999. No working was undertaken by Glebe in the areas identified in Red Rake or Unwin Vein between 1999 and 2012. Glebe did not undertake any working in the Peak Pasture area identified in the



ROMP submission. In fact Glebe submitted the 2000 consolidating application to focus their vein mineral working within the western end of Longstone Edge rather than the eastern end. At the time Glebe representatives considered there was no evidence to support any significant vein mineral reserves in the area.

Scale of operation in the period of two years prior to the making of the Prohibition Order

32. Since all the necessary information required to carry out a screening opinion was not provided, the permission went into automatic suspension on 1 November 2010 and no winning or working has taken place in that period under that permission.

33. The Authority will refer to discussions with BFL representatives at the latter end of that... period, who were aware that the permission had been suspended and did not express any intention to work there. There was no discussion from BFL as to what their intentions were at the time.

34. The Authority will refer to discussions held in December 2011 with Coverland (who at the time were a potential purchaser of Bleaklow) about possible alternative future uses for the site. Coverland was made aware that the minerals permission was suspended.

35. The Authority will refer to further meetings with Bleaklow held after the Coverland purchase. The implications of the permission being in automatic suspension and the prospect of a Prohibition Order were discussed. The impression gained by officers was that Bleaklow was not interested in further mineral extraction at the Site.

36. The Authority will refer to correspondence on behalf of Bleaklow on 5 September 2012 and 11 June 2013. The first letter sets out that the owner is considering a number of potential options. In relation to mineral working it states:

“...we do not see any immediate benefit in Coverland UK Ltd attempting to de-stall the ROMP. At the same time we cannot discount the potential for some mineral recovery and do not see that formal proceedings to prohibit future mineral working is an appropriate way

forward in such circumstances where other options may secure better sustainable outcomes in a cost effective manner and also have the potential to bring some closure on the question of future mineral operations”.

#### Comparison with past operations

37. In 1951 a planning application sought permission to extract fluorspar and barytes from the 'Deep Rake' a vein structure which runs through the 1952 permission area. The applicant was extracting about 5,000 tons of fluorspar gravel, 300 tons of fluorspar lump block and 210 tons of barytes annually. There was no mention of the total tonnage of fluorspar or barytes resource available to be extracted. The 1951 application did not provide any details of the extent of the vein structures (other than Deep Rake)

38. Some minor operations historically took place in other parts of the site, such as Red Rake, but the focus has always been on the Deep Rake. In 1997 the initial ROMP application included some information about trial trenching carried out by Laportes along certain known vein structures containing vein mineralisation, but no operational working ever took place arising out of this.

39. Historically Dog Rake, Catlow Rake, Red Rake and Gospel Rake have been extensively worked for fluorspar but this had all ceased by the late 1980's.

40. Glebe submitted information in relation to the ROMP about proposed future working and this will be referred to in context where it provides information about past operation.

#### **What is the likelihood of resumption of winning and working “to a substantial extent”**

#### Quality and Quantity of remaining mineral and constraints on winning and working

41. In the case of Longstone Edge East, some information as to quality and quantity of minerals has been provided through the ROMP process, in planning applications connected with the Site and evidence given in public in the course of the appeals which followed the

enforcement action that was taken. The Authority will also refer to information held on its files and the findings of its geotechnical consultants GWP and published material.

42. In 1997 the Authority employed geo-technical consultant B L Hodge and Partners to advise regarding the quality and quantity of vein mineral likely to be present in the ROMP area. Based on his past knowledge and available information Brian Hodge advised that it was impossible to quantify the amount of vein mineral remaining because of the inadequacy of the available information. He advised that proposed working would yield a certain amount of vein mineral (including fluorspar) but there was no doubt that the quantity would be insignificant in relation to the 12mt of limestone proposed to be quarried. He also advised that the Dog Rake, Catlow Rake and Gospel Rake had been extensively worked for fluorspar either below or close to the quarry extension floor level. In addition, the whole or sections of Dog Rake, Catlow Rake, Cam Rake, Gospel Rake and some other branches were situated within the proposed quarry extension walls, so they would not be fully worked, even if there was any useful vein mineral left in them to exploit.

43. Public inquiries were held in 2006 and 2007 in respect of an enforcement notice. Evidence was submitted on behalf of Bleaklow by Kevin Walton a Geotechnical Engineer and Geologist, who made an assessment of the Peak Pasture area based on the trail trenching undertaken by Laportes. At the Public Inquiry Mr Walton agreed that a 10% reduction in his initial estimated reserves should be made, to allow for the effect of past underground mining, giving a reserve net figure of 160,000 tonnes (compared to the 177,200 tonne figure he previously gave).

44. A 2008 planning application for fluorspar extraction at Tearsall, made by Glebe, stated that the inferred resource for the mineralisation in 4 vein structures present at Peak Pasture (excluding Deep Rake and Red Rake) was 400,000 tonnes. This 'inferred resource' is the resource of vein mineral predicted to be available as inferred by trial pits dug in 1996 and projecting this information to assume deposits extend to 50m depth. The inferred

resource uses a cut-off grade of 16%CaF<sub>2</sub> (calcium fluoride) and assumes 15% loss due to old mine workings. The resulting figure is then doubled on the basis that there is, in Glebe's view, always more fluorspar than their estimates show. The result of this is an inferred resource figure of 360,000t of fluorspar ore.

45. The Authority had the information provided by Glebe at this time assessed by GWP. GWP consider that the inferred resource is 'highly speculative' and they can see no justification on the information available to double the resource. They add that the use of the 16%CaF<sub>2</sub> leads to 'considerably larger figures'. GWP assess that the probable reserve (which is a figure reached by only including mineral at a depth proven by the trial pits of around 3m), is 14,262 tonnes at 16%CaF<sub>2</sub>. GWP consider that on the basis of the BGS geological maps, further resources of fluorspar are likely to exist outside of Peak Pasture in the 1952 permission area, though this is not sampled. They state that a 'very rough estimate' indicates a possible resource of 300,000t of 16%CaF<sub>2</sub>.

46. It is concluded in GWP's assessment that "It is certain that there is some fluorspar available in the remainder of the Longstone Edge 1952 planning consent area...reliable evidence exists for only some 14,000t of 16%CaF<sub>2</sub> grade ore. It is probable that more than this exists, but we would be very surprised if the amount was as much as 500,000t."

47. In 2010 Glebe submitted information in relation to the ROMP scheme in which they proposed to extract 2.9 million tonnes of vein mineral and 5.9 million tonnes of limestone from the Peak Pasture area. The information contained in the letter from Glebe was signed by Clint White, who in 2003 had provided a statement to the Courts on behalf of Glebe, stating that there was no evidence to support any significant vein mineral reserves in the area.

48. In order to progress the ROMP the Authority would need to receive geological information sufficient to demonstrate a 'probable reserve' which is the economically mineable part of an 'indicated mineral resource'. An 'indicated mineral resource' is that part of a

mineral resource for which tonnage, densities, shape and physical characteristics, grade and mineral content can be estimated with a reasonable level of confidence. It is based on exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes, which are too widely or inappropriately spaced to confirm geological continuity and/or grade continuity, but are spaced closely enough for continuity to be assumed. GWP have advised that that the following should be provided:

- Angled boreholes, at least 2 per vein.
- Deep mining records
- Surface mining records

49. Despite this information being requested by the Authority, none of it has been provided. No information on the quality and quantity of workable mineral has been provided by either Bleaklow or BFL. Glebe did provide some information with its 2008 planning application for Tearsall Quarry, which was assessed by GWP, who considered the inferred resource was highly speculative. It was also inconsistent with previous submissions made by Glebe and with the Authority's expert geo-technical advisor's reports.

50. Further information was provided by Glebe in relation to the ROMP submission in October 2010. It is evident from the information provided that Glebe did not carry out any further mineral exploration works, contrary to the advice received from GWP in connection with the appraisal of the 2008 Tearsall application data, but remained reliant on the information available and used in connection with the 2008 Tearsall application. Glebe also revised the CaF<sub>2</sub> figure from 16% to 10% meaning that the estimated quantity of vein mineral has significantly increased further to 2.9mt and the amount of limestone that could be removed as a consequence was identified as 5.9mt.

51. The Authority considers that little weight should be given to the 2010 information and that GWP's comments provided in connection with the 2008 Tearsall application remain more credible in that there is reliable evidence for only limited quantities of proven ore of fairly low quality grade, namely 14,000 tonnes of 16% CaF<sub>2</sub> grade ore in the Peak Pasture area.

52. On this basis, the Authority will submit, on the basis of the evidence of its geo-technical expert, that only limited quantities of proven ore of fairly low quality grade can be inferred.

53. The Authority will submit that on the basis of the evidence it has, that the quality and quantity of mineral remaining on site is such that mineral working is not likely to resume.

#### Forecasts of trends in production and markets for their products

54. The British Geological Survey document about fluorspar published in February 2010, considered that the permitted reserve estimates of fluorspar within the National Park were 1,215,000 tonnes of ore accessible by open pit working and 3,000,000 tonnes from underground mines, as at October 2009. Only open pit working was taking place at around this time which would have provided around 3 years production based on 420kt annual processing of ore contained within the 2008 Tearsall application.

55. Current Core Strategy policy supports the underground mining of fluorspar but not opencast working of fluorspar.

56. No information about the markets for vein minerals or the trends in production has been provided on behalf of the ROMP applicants. Reference will be made to relevant planning policy (MPG4 and now replaced by Planning Practice Guidance ID: 27) which states that it is for the operator/owner to supply the information about forecasts of trends and markets.

57. The BGS publication on fluorspar issued in 2011 identified that following a long history of extraction many of the major veins have been depleted as sources of open pit fluorspar in Britain. In December 2010, Glebe announced that by the end of 2010, it would cease mining and processing within the Peak District due to failure to secure sufficient funding for the plant, thus ending fluorspar production in the UK. Before its closure Glebe was working towards re-opening Milldam Mine where the bulk of the reserves are located and where extraction is permitted until the end of 2013. The sole consumer of acid grade fluorspar at the time was the fluoro-chemical manufacturing facility at Runcorn, operated by Mexichem who now sources fluorspar from abroad. In 2009 there was a rapid decrease in prices in fluorspar due to weakening demand from the fluoro-chemical sector. During 2010, fluorspar prices in all grades remained nearly constant.

58. The Minerals Industry publication of October 2012 contained an article on fluorspar referring to anticipated renewed output following the acquisition of Glebe assets by BFL on 18 May 2012. BFL had plans to re-start production in early 2013 with a minimum acidspar output target of 50,000 tonnes. The UK acidspar requirements were being completely fulfilled by imports from Mexico in 2011. A total of 33,000 tonnes were imported in 2011. No information was available on current production. The publication says that worldwide there is expected to be no long term shortage of supply of fluorspar.

Is there a genuine intention to resume working

59. As the vein mineral rights within the site are held by different entities, the position in respect of each land ownership and mineral right holder is considered separately.

The Bolland Family

60. The Bolland family made an incomplete ROMP submission in 1997 which was invalid. As stated earlier in this report, there is no intention to win and work the minerals in this area of the Site.

61 .The Authority will refer to the letter from the Bolland family stating that they have no objection to the Prohibition Order.

Bleaklow

62. With respect to the area owned by Bleaklow, during the last 15 years the company, under its previous owner, concentrated on asserting that the 1952 planning permission allowed the extraction of limestone. In August 2009, when it was finally legally resolved that there were limits on the amount of limestone that could be removed and sold in the course of winning and working the fluorspar and barytes under the permission, Bleaklow, and its lessee operator at the time, ceased mineral working at the site.

63. Subsequently, there has been no working of mineral for a period of four years, and no environmental and other information, required under the regulations to progress the ROMP, has been provided for that part of the site.

64. Following the purchase of the site in 2012, the new owner's focus has been to suggest, in the course of pre-application discussions, non-minerals proposals as an alternative for the site. To date, no planning applications have been submitted for these proposals.

British Fluorspar Ltd

65. With respect to the area within the Prohibition Order Site where BFL's mineral interests lie, no working has taken place since the late 1980's, when working took place by the then Bleaklow Mining Co Ltd within some of the veins (part of Catlow Rake, Dog Rake and Red Rake) in the Peak Pasture area.

66. By the late 1980's Laportes had ceased opencast working in the eastern end of Longstone Edge and were carrying out restoration works. Underground working was continuing to take place using the access from Sallet Hole adit entrance into Deep Rake, heading westwards for extraction within High Rake and Bow Rake at the western end of



Longstone Edge. The 1997 plans submitted in the ROMP also showed that Laportes was proposing to work only two limited areas in Longstone Edge East, namely Unwin Vein and the western end of Red Rake. Laportes did not undertake any working in these areas between 1997 and 1999.

67. No working was undertaken by Glebe in the areas identified in Red Rake or Unwin Vein between 1999 and 2012. Glebe did not undertake any working in the Peak Pasture area identified in the ROMP submission. Glebe submitted the 2000 consolidating application to focus all future working within the western end of Longstone Edge rather than the eastern end. At the time Glebe representatives considered there was no evidence to support any significant vein mineral reserves in the area.

68. The information that was provided to pursue the ROMP, including for the area where BFL has mineral interests, is insufficient. Some information was provided before and shortly after the site went into suspension but no additional environmental information has been submitted since December 2010.

69. The Authority will submit that that BFL is not entitled to pursue the ROMP application.

#### Conclusion on Genuine Intent

70. The Authority will submit that the failure to pursue the ROMP in the teeth of the impending Prohibition Order is significant. Bleaklow did not provide any updated environmental or other information within the specified periods despite reminder letters, even when there was a risk that prohibitions order could be made.

71. Since BFL acquired the site in 2012, a number of meetings have been held with officers and representatives of the company. At no stage did BFL express an interest in mineral working on the land at Longstone Edge East. However, in a letter dated 17 September 2013, written after the company became aware of the Authority's current consideration of future working at the site, BFL refers to the terms of a S106 Agreement,

signed in June 2010, in which mineral working at Longstone Edge was temporarily relinquished in exchange for working at Tearsall Quarry. BFL considers this indicates “the Authority recognised Glebe’s right to work their portion of Longstone Edge East” and informs the Authority that the “Peak Pasture land is still considered a potentially valuable mineral reserve by BFL and at this period in time it is regarded as an area that will be worked at some point in the future”.

72. The Authority will submit that this statement is insufficient, on its own, to indicate a real and genuine intention to resume working for the purposes of this legislation. The purpose of the S106 agreement linked with the Tearsall permission was to allow time to enable the stalled mineral review process to be concluded and/or to pursue a permanent solution to the threat of mineral working in the 1952 permission area. Based on available evidence and the advice of the geotechnical consultant GWP, the Authority submits that there is no substantive quantity and quality of vein mineral (fluorspar) remaining in the eastern end of Longstone Edge.

73. The areas known as Backdale and Wagers Flat have not been active since 2009 and 2007 respectively, prior to which work focused on limestone extraction rather than fluorspar extraction based on Bleaklow’s interpretation of the 1952 permission.

74. No opencast working of vein mineral (fluorspar) has taken place within the remaining extensive area (the 105 ha of land in which BFL own the vein mineral rights and the limestone disturbed) at the eastern end of Longstone Edge since 1989.

75. Generally the vein structures in the eastern end of Longstone Edge are relatively small in scale and have been extensively worked in the past, leaving limited quantities of vein mineral (fluorspar) that are of sufficient quality to be economically viable to work.

76. On the basis of the facts set out in this statement, it is considered that the current owner’s statement on behalf of Bleaklow that they “cannot discount” future mineral recovery does not equate to a “real and genuine intention” to work the site. If a genuine intention

existed then there should have been evidence of this through the provision of some or all of the environmental and other information required in order to meet the requirements of the ROMP process.

77. The Authority will refer to the reference by Bleaklow of its intention to pursue other development projects not involving winning and working of minerals and which is inconsistent with and prohibitive of an intention to resume minerals operations.

78. Firm proposals have not yet come forward and in any case the Prohibition Order would not preclude the development of the land for an alternative use if the proposal was appropriate in its own right.

79. Bleaklow have recently carried out works for restoration at Wagers Flat which is not indicative of a genuine intention to resume mineral working in this area. Bleaklow have also carried out extensive works to agriculturally improve land to the north of Backdale, on land above the Deep Rake structure. These works are not consistent with a genuine intention to win and work minerals.

80. Bleaklow has not gone through the necessary steps to pursue a scheme of modern environmental conditions, and has not engaged in the ROMP process as would reflect a genuine intention to work this site. There is no issue of there being any “reasonable excuse” for the failure to provide the relevant environmental information.

81. In addition, although BFL is successor to the mineral rights previously owned by Glebe, who submitted some environmental information for part of the site prior to automatic suspension, until September 2013 it has not indicated that it would actively pursue its interests there. The Authority has previously made BFL aware that it does not consider Glebe was the ROMP applicant and that the information that Glebe did provide was insufficient.

82. The Bolland family can no longer take any part in the ROMP process. There is no proposal to extract mineral on their land.

**Are there any other material considerations that should be taken into account in deciding whether to confirm or modify the Prohibition Order?**

The Sufficiency of the ES

83. The various environmental information submitted, notwithstanding the Authority's submission that the information was not submitted by the correct applicant, does not meet the requirements of an Environmental Statement within the meaning of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) regulations 1999 (as amended) [and the Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008 because the information necessary for a screening opinion has not been provided and all of the provisions referred to in Regulation 26A(17) which are relevant to the application have not been covered or are insufficient.

84. The Authority will refer to the correspondence exchanged with the Applicant.

85. In particular, on 12 August 2008 the Authority issued notification requiring information to enable the Authority to adopt an up-to-date statutory screening opinion under Regulation 5(3) of the 1999 Environmental Impact Assessment Regulations, as amended. Due to legal uncertainty about the scope of the planning permission at the time, the Authority felt it was reasonable to agree extensions of time for the submission of the required information pending the final outcome of legal action taken by Bleaklow.

86. On 30 July 2010 the Authority wrote to both Bleaklow and Glebe, requesting the information that was required to enable the Authority to undertake a screening opinion. In doing so it referred to the 2008 Regulation 5(3) notification and granted a final extension of time for submitting the information until 31 October 2010. It was made clear in this letter that

a failure to provide the information would lead to the automatic suspension of minerals development under the 1952 planning permission by virtue of the amended 1999 Regulations. Nothing was received from Bleaklow.

87. Some limited information was received from Glebe in respect of part of the site but, in the Authority's view, Glebe was not an applicant in respect of the ROMP application and, irrespective of the fact that Glebe was not the applicant for ROMP purposes, it was insufficient for the Authority's purposes. This was confirmed in correspondence.

Whether there is a reasonable excuse for the continuing delay in providing the necessary information

88. Correspondence was sent to Bleaklow's representative on the 20th February 2012 reminding the company that the mineral permission was in automatic suspension and that, if the required information was not submitted by 31 October 2012, the Authority had a duty under the Regulations to consider making a prohibition order. No formal alternative proposals have been received and no information has been submitted to enable the Authority to make a screening opinion.

89. Bleaklow's representative wrote to the Authority in letters dated 5 September 2012 and 11 June 2013. The first letter sets out that the owner is considering a number of potential options. In relation to mineral working it states:

'...we do not see any immediate benefit in Coverland UK Ltd attempting to de-stall the ROMP. At the same time we cannot discount the potential for some mineral recovery and do not see that formal proceedings to prohibit future mineral working is an appropriate way forward in such circumstances where other options may secure better sustainable outcomes in a cost effective manner and also have the potential to bring some closure on the question of future mineral operations.'

90. The 2008 Guidance on Environmental Impact Assessments and ROMPS suggests at paragraph 3.11 that where applicants are intending to consolidate or agree exchanges of areas for mineral working they may be unwilling to provide the information to progress a ROMP as it might be unnecessary. In these circumstances paragraph 3.13 indicates the MPA may extend the period for submission of information where there is a clear and limited timescale for a decision and no environmental harm will result. However, this is not applicable in this case as the landowner is not seeking alternative mineral development. Furthermore a decision is unlikely in the short term as no proposal has been put forward.

91. A delay in providing environmental information for the purpose of keeping a mineral permission extant in order that it could be traded to facilitate non-minerals development which is contrary to the Peak District National Park Development Plan would not be in line with the circumstances set out in the Guidance.

92. The Authority will argue that there is no issue of there being a “reasonable excuse” in providing the necessary information.

Whether an operator who has provided all the information that could be reasonably requested of him would be affected by the order

93. The process for the ROMP application is set out in the 2008 Regulations and accompanying guidance which indicate that once the tests are met the Authority is under a duty to make a Prohibition Order. If an operator does not want to be subject to a Prohibition Order then it is highly likely that it would actively pursue the ES so that the ROMP can be determined. The fact that the operator has not done so is significant.

94. On 30<sup>th</sup> January a Certificate for Lawful Use for an area of land at Backdale was issued to Bleaklow by the Authority; this land is shown in cross hatching on the plan accompanying the certificate and the lawful use is described as the manufacture of matured slaked lime putty and pre mixed mortars from imported raw materials, and use of the land for ancillary offices, and is subject to the limitations and stipulations set out in the certificate.

**If the Prohibition Order is confirmed, are any modifications required?**Are the requirements contained in the Prohibition Order appropriate and proportionate?

95 In the Prohibition Order the Authority attached restoration plans for two parts of the Prohibition Order area. The plan for Backdale was drawn up by GWP and the Authority will show that it is the appropriate restoration for the site. The plan for Wagers Flat is based on a survey produced by GWP, and the Authority will show that it is the appropriate restoration for the site. The Authority will refer to relevant policy and good practice guidance.

## Human Rights

96 The confirmation of the Prohibition Order will extinguish the permission for winning and working of minerals or the depositing of mineral waste anywhere in, on or under the land at the Site and will impose restoration and aftercare conditions in respect of the environment and amenity. The provisions of the Town and Country Planning Act (Environmental Impact Assessment) (Mineral Permissions and Amendment) Regulations 2008 were introduced to make effective the ability of mineral planning authorities to determine applications for ROMPs in accordance with the Environment Act 1995m the Environmental Impact Assessment Regulations 1999 (as amended) and the requirements of the European Council Environmental Impact Assessment Directives. Any resulting control of the use of land is necessary and proportionate to enable compliance with the EIA Directives and to protect the environment. To the extent that the making of the Prohibition Order and the imposition of restoration and aftercare requirements might engage 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.

Should any further requirement be imposed?

96 The Authority has had discussions with representatives of Bleaklow and is willing to explore some minor modifications to the restoration and aftercare scheme where this ensures a positive approach to appropriate restoration and subsequent management of the site in consistency with the restoration plan. This may result in further or substituted requirements.

7<sup>th</sup> April 2014



## Glossary of Names Used in this Statement

**“Authority”** The Peak District National Park Authority

**“Bleaklow”** Bleaklow Industries Ltd who own the freehold land except a small area west of Backdale and own the mineral rights south of Bramley Lane.

**“BFL”** British Fluorspar Limited , who acquired the interests formerly held by Glebe Mines Ltd (**Glebe**), owns the vein mineral rights, and the limestone disturbed, to the north of Bramley Lane and a limited area to the south of Bramley Lane.

**“Coverland”** Coverland UK Ltd purchased Bleaklow in 2012 together with assets, including the land that it owned which was subject to the 1952 permission.. The name Bleaklow Industries Ltd was retained

**“Glebe”**, Glebe Mines Ltd formerly owned the vein mineral rights, and the limestone disturbed, to the north of Bramley Lane and a limited area to the south of Bramley Lane.

**“GWP”** geotechnical specialists Geoffrey Walton Partnership employed by the Authority

**“Ineos”** Ineos Fluor who acquired Glebe in or around 2008

**“Laportes”** Laporte Minerals were predecessors of Glebe in terms of their mineral and property interests.

**“Peak Pasture”** is in an area within the 1952 permission

**“RMC”** RMC Roadstone Ltd – Eastern were the predecessors of the legal interests of Bleaklow

**“ROMP”** review of old minerals permissions under the Environment Act 1995

**“the Bolland family”**. The surface of a small area to the west of Backdale is owned by the Bolland family Bleaklow own the mineral rights to this land.

**“Tearsall”** is a quarry at Bonsall Moor, near Matlock, Derbyshire

**“Winster”** is a quarrying site at Winster, near Matlock, Derbyshire

## Plan



## List of Documents

Planning permission reference 1898/9/69 (“the 1952 permission”)

2004 consolidating permission of part of the 1952 permission and other old mineral permissions included within the Longstone Edge Review of Old Mineral Permission

2003 permission for fluorspar extraction at Winster, associated planning agreement and associated High Court decision

2004 - 2007 Enforcement action; evidence, submitted on behalf of Bleaklow, by Kevin Walton; associated decisions; case report Secretary of State for CLG and PDNPA v Bleaklow Industries Ltd and another

2008 planning application and supporting information for fluorspar extraction at Tearsall, planning decision and s106 agreement

March 1997 ROMP application for determination of conditions under Schedule 13 of the Environment Act 1995, correspondence and submitted information

Correspondence, meeting notes relating to ROMP and proposals for Longstone Edge East

PDNPA Geotechnical consultants reports, GWP and B L Hodge and Partners

Documents, correspondence in respect of PDNPA decision to make prohibition order

PDNPA Planning Committee report November 2013 concerning the making of the prohibition order

Land Registry and Companies House information

Letter from the Bolland Family January 2014

PDNPA LDF, Core Strategy DPD, Minerals Background Paper

MPG4, NPPF and Planning Practice Guidance ID: 27)

Environmental Impact Assessment and ROMPs – Guidance on Regulations (DCLG, July 2008)

British Geological Survey publications on fluorspar from 2010

Glebe announcement 2010

Minerals Industry publication October 2012

GWP Geotechnical consultant's technical drawings and survey in respect of restoration scheme

2013 application for certificate under s191 TCPA 1990 and 30<sup>th</sup> January 2014 Certificate for Lawful Use for an area of land at Backdale

Correspondence with Derbyshire County Council re public footpath at Backdale

Photographs

## **NOTICE**

The above documents can be inspected free of charge at the offices of the Peak District National Park Authority, Aldern House, Baslow Road, Bakewell, Derbyshire DE45 1AE

please contact Customer Service [customer.service@peakdistrict.gov.uk](mailto:customer.service@peakdistrict.gov.uk) 01629 816361

the following link may also be of use

<http://www.peakdistrict.gov.uk/planning/how-we-work/minerals-and-waste/specific-applications/deep-rake>

