

APPENDIX 1

Report to Planning Committee 15 June 2007

AGENDA ITEM No. 6

PEAK DISTRICT NATIONAL PARK AUTHORITY

PLANNING COMMITTEE

15 JUNE 2007

REPORT OF THE HEAD OF PLANNING SERVICE

PLANNING ITEMS

PART A

1. FULL APPLICATION - CONTINUED EXTRACTION OF STONE FROM EXISTING QUARRY, EXTRACTION OF STONE FROM LAND TO WEST OF EXISTING QUARRY, PROVISIONS OF SCREENING AND LANDSCAPING AND RESTORATION OF EXISTING QUARRY AND PROPOSED EXTENSION. DALE VIEW QUARRY, STANTON IN PEAK (NP/DDD/0606/0613/JEH)

Note

It should be noted that an officer declaration of substantial non-pecuniary interest in relation to this matter has been received.

Key Issues

This proposal was previously considered by Planning Committee on 16 March 2007. The report considered at that meeting recommended approval. This report is updated and amended from the report previously considered.

The key issues to consider in relation to this proposal are as follows:

- Whether the proposed extension to Dale View Quarry is acceptable;
- The proposed relinquishment, without compensation, of the existing permission at Lees Cross and Endcliffe;
- Whether the proposal in that context is considered equitable.

Site Location

Dale View Quarry lies on the western side of the Derwent Valley, on the hillside that forms Stanton Moor. Stanton-in-Peak village lies about 600m to the west, and the hamlet of Stanton Lees is 700m to the south east.

There are two active gritstone quarries immediately adjacent to each other. Dale View Quarry is the more southern quarry and New Pilhough is adjacent to Dale View to the north. They are operated by different companies, and separated by an unworked area and an area of land which has been backfilled with quarry waste. The overall layout of the quarries is complex. To the east of Dale View lie the regraded and restored quarry tips. At the foot of the tips is the Pilhough Road. The application site lies to the west of the permitted working area.

About 300m to the south east of the site and adjoining Stanton Lees village lies Lees Cross and Endcliffe quarries. These quarries are of relevance to this report as the application proposes to give up the planning permission to work Lees Cross and Endcliffe quarries, without compensation. Lees Cross and Endcliffe quarries are registered as a dormant site under the Environment Act 1995. The dormant status has been confirmed by the Court of Appeal.

Stanton Moor itself is about 250m away and much of it is designated as a Scheduled Ancient Monument for its bronze age archaeology. It incorporates many sites of importance, including the Nine Ladies stone circle. The Moor is also designated as access land, and has a number of footpaths. The area has a high level of recreational use. The Moor is designated as Natural Zone within the Authority's Development Plan

History

1952 – Ministerial decision letter grants permissions for the continuation of gritstone quarrying and tipping of waste on several sites at Birchover and Stanton Moor, including Palmers Pilhough (now known as Dale View).

1983 – quarrying recommenced within Dale View Quarry under the 1952 ministerial decision letter.

1983-1988 - Dale View and adjacent quarries expand to major operations being worked on a large scale. Rock waste tipped from the top down the slope (within the approved area) but damaging the self-set trees. The tips became very prominent.

November 1989 - instability noticed in base of tip below Dale View Quarry, following a period of heavy rain. The tipping had apparently triggered a previous unstable area below the tip.

August 1990 - consent granted for the stabilisation of the existing Dale View Tip and regrading works over a 2-year period. Tipping thereafter was to be within the quarry void.

October 1992 - planning permission refused to extend Dale View Quarry to the south-west and the tipping area to south. (Appeal lodged - but subsequently withdrawn August 1994).

January 1993 - revised application received to extend Dale View Quarry and tip (withdrawn in March 1993).

March 1994 - planning application received to tip excess tipped material to south of existing tip (refused at May 1994 Committee).

August 1994 - Enforcement and Stop Notices served over unauthorised quarrying to east of permitted quarrying area. Appeal lodged against the Enforcement Notice in September.

September 1994 - appeal lodged against Board's decision to refuse permission to tip excess material to south of existing tip.

November 1994 – retrospective application for quarry extension. Refused March 1995.

November 1995 – appeal against enforcement notice relating to unauthorised extraction and refusal of retrospective planning permission for extension of extraction area withdrawn following successful negotiation between the Authority and the applicant.

1997 – determination of conditions under the Environment Act 1995 Review Scheme. Scheme agreed following extensive negotiations.

2000 – application refused for an extension to the north-west, landscaping in an area permitted for extraction, and for variation of conditions attached to the existing consent.

2001 – permission granted for an explosive store.

Proposal

The proposed development is for a 3.18 hectare extension to the existing Dale View Quarry. The application area is a total of 12.3 hectares, and includes the existing quarry.

Dale View Quarry is an established site with modern conditions determined in 1997 under the Review of Old Mineral Permissions (ROMP) provisions. The current permitted end date is 2042, the permitted annual output is 75,000 tonnes average over a three year period, the permitted numbers of vehicle movements are 30 in 30 out per day for block stone, and 50 in and 50 out per day for crushed stone, the permitted hours of operation are 06:00 to 19:00. The production of crushed stone was for a limited period (linked to the completion of phase 4 of the operations)

The proposal includes the extraction of 1.324 million tonnes of gritstone from the application area, over 21 years. This would equate to 62,500 tonnes per year, which would be worked in a phased manner.

The stone would be removed from the faces with a hydraulic excavator and then split using black powder blasting. It is proposed that all the stone be used for block stone products used in building, and masonry, therefore the stone would be split rather than shattered.

It is proposed that stone be transported to Stancliffe Stone's sawing and processing facility at Grangemill. Stone off-cuts would be returned to the quarry for use in progressive backfill and restoration.

It is proposed that the number of vehicles be restricted to 50 per day, 25 into and 25 out of the site.

The proposed hours of operation for working the quarry are 07:00 to 19:00. The proposed hours of operation for vehicle movements are 07:00 to 19:00 Monday to Thursday, and 07:00 to 13:00 on Friday. It is proposed that no lorry movements will take place on a Saturday, with the exception of a maximum of five Saturdays in any calendar year, which would be the subject of prior notification to the Authority and to a nominated local resident.

The proposed restoration is to agriculture (11.5 hectares) and amenity (nature conservation) (0.8 hectares). An extended period of aftercare of 20 years is also proposed.

The application is considered 'major' and is accompanied by an Environmental Statement. Additional information has been submitted after the initial consultation to provide further details of the proposal and its likely impacts. This includes:

An archaeological evaluation excavation report;

A Phase II habitat survey;

More detailed working plans;

Confirmation from relevant landowners regarding revocation of land and long term aftercare;

Additional noise assessment;

Information regarding the reserves of stone existing within Dale View Quarry.

The proposal also includes the offer to relinquish, without compensation, the extant old mineral planning permission for the winning and working of sandstone at Lees Cross and Endcliffe quarries, that was issued by the Ministry of Housing and Local Government in 1952.

Consultations

As well as the initial application which was subject to consultation, there have been three submissions of additional environmental information which have been subject to consultation.

At the date of the first consultation English Nature and the Countryside Agency were still in existence as separate organisations. Subsequently Natural England, which brings together the functions of English Nature, Countryside Agency and Rural Development Service, was launched on 11 October 2006. Initial consultation responses from the separate organisations are reported below, along with comments on subsequent consultation from Natural England.

Because of the nature, scale and extent of the potential impacts of the proposed development, a number of parish councils beyond Stanton in Peak, asked to be consulted. This was carried out and their views are included below.

- Countryside Agency – Welcome the inclusion of a landscape and visual assessment of the site. Welcomes advance planting to ensure works are done in an environmentally sensitive manner and that mitigation will reduce the negative impact on the high quality landscape from the start of the project. Support restoration proposals as they enhance the environment with new habitat creation and opportunities for recreation.
- English Nature – Satisfied that the badger survey is appropriate.
- The locations for the proposed bat boxes should be agreed, and the boxes should be sited prior to any tree felling.
- A watching brief for bats during tree felling should be undertaken and in the event that bats are apparent, works should cease. *Note – works would be required to cease under separate legislation anyway and it would not be correct or appropriate to require this by condition.*
- Support the retention of felled trees as invertebrate habitat.
- Environment Agency – No objections in principle. Propose conditions in relation to surface water drainage, groundwater and contamination and de-watering. On the basis that de-watering is not proposed, those conditions were withdrawn.
- English Heritage – Supports the 'Stanton Moor Principles' and therefore welcomes the proposed revocation of Lees Cross and Endcliffe Quarries, and considers that the application offers parity in terms of permitted reserves of stone.
- Consider that: the proposed planting along footpath S9 would not be in keeping with the historic landscape character and the local form of land enclosure; the cumulative visual effect on the anticipatory approach and setting of the monument would be negative; and that tree planting may have significant negative impacts on buried archaeological remains which have not been evaluated. Consider that the effect of the planting is not proven.

In summary they do not object and believe that the successful revocation of the old mineral permissions at Lees Cross and Endcliffe quarries would represent the pragmatic, satisfactory and very welcome resolution of a long standing and complex issue.

Highway Authority –

Consider that the road network serving the site is restricted in terms of width, geometry, gradient, visibility and provision for pedestrians, and on that basis it would be unsuitable to serve completely new mineral extraction operations at the site.

The acceptance of continued mineral extraction is solely based upon favourable comparison with the extant authorised use and its approved levels of traffic generation, whereby movements will be the same or less than at present.

Require that visual splays are maintained (with the exception of mature trees along Lees Road).

Require that an annual inspection takes place with the PDNPA and DCC Highways, and operator, to identify any highway margins work required due to the extraordinary use of the highway by the operator.

Further letter received which confirms the cost of highway margin works should be met by the operator.

Health and Safety
Executive –

The HSE does not see any conflict with current health and safety legislation.

District Council
Environmental Health –

Requests additional noise survey works. Suggests a condition to control vibration, and agrees the dust condition proposed would be suitable.

Following receipt of acceptable additional environmental information recommends conditional limitations regarding noise.

District Council Planning –

No comment submitted. The application has not been subject to comment as it is considered too complicated to provide a response.

Stanton in Peak Parish
Council -

Stanton in Peak Parish Council have formed a coalition with Friends of the Peak District/ Campaign to Protect Rural England(FOPD/CPRE), Stanton Against the Destruction of the Environment (SADE), and Stanton Lees Action Group (SLAG).

The views of this coalition are reported below under 'representations'.

Rowsley Parish Council -

No objections. Welcome the reduction in vehicle movements.

South Darley Parish
Council –

Do not object, but ask for rigorous safeguards to ensure that Lees Cross and Endcliffe are not re-opened.

Darley Town Council -

Object to the application due to adverse visual impact, and congestion on the A6 caused by transportation of material.

PDNPA Landscape – Requires additional information on a number of issues including: further details regarding the proposed mounding; necessity for planting; visual impact of deer fencing that would be required; size of buildings; timing for removing the old entrance; quality of plans and photographs .

In addition, considers that the planting includes too much emphasis on birch and suggests that planting should be moved further away from established trees. Unconvinced that the planting along footpath S9 is necessary as a screen.

Following receipt of additional information, no further information was required.

Considers that the development proposed at Dale View is less damaging to the National Park than the likely impacts of mineral extraction at Lees Cross and Endcliffe.

PDNPA Ecology – Considers that the application would result in the loss of neutral grassland of category B & C. However, the restoration proposed is to create species rich, MG5 hay meadow habitats, which is peak district BAP habitat. The long term aftercare proposed should be used to ensure the success of this habitat, and should include limited agricultural use.

Further to this, the habitat at Lees Cross and Endcliffe quarries which would not be worked include BAP quality Oak Woodland. It is considered that higher interest exists at the Lees Cross and Endcliffe site than the proposed extension area, and so the proposal would result in lower overall ecological loss or disturbance to the area. The interest lost at the proposed extension area also could be restored to its previous interest or enhanced more quickly than Lees Cross and Endcliffe.

PDNPA Archaeology - Specialist report needs to be submitted regarding materials recovered from trial trenches.

Strong objection to planting proposed along footpath no S.9, due to lack of evaluation of this area, and the lack of sensitivity to the historic landscape that planting in this area would have, and the negative effect that this planting would have on visitor experience for those visiting the Nine Ladies Stone Circle.

Considers that the development proposed at Dale View is less damaging to the National Park than the likely impacts of mineral extraction at Lees Cross and Endcliffe.

PDNPA Countryside and Economy - Land not currently in agri-environment scheme.

PDNPA Conservation – Tree Concerned about proposed planting alongside Lees Road and possible negative effects on established trees.

Considers that any tree planting carried out should be fenced to exclude deer and stock, due to record of failure of planting in the area.

Further comments include recommendations regarding tree species to be planted, spacing and maintenance of planting.

Considers that the development proposed at Dale View is less damaging to the National Park than the likely impacts of mineral extraction at Lees Cross and Endcliffe.

Representations

A number of letters of representation have been received both in support of and in opposition to the application, as a result of the press and site notice procedure.

Letters of Support.

A bundle of 24 letters of support was delivered to the Authority under the cover of a letter from Mr Davie-Thornhill of the Thornhill Settlement, the landowners for the application site. The letters are from various architects and the 'Men of Stones' 'a society advocating the use of stone and other natural and local building materials for encouraging craftsmanship and preserving good architectural qualities', and SPAB (the Society for the Protection of Ancient Buildings). The letters support this proposal and two other applications in the Thornhill Settlements estate, for the following reasons:

- The production of stone from the Stanton in Peak area is supported due to the character and qualities of the stone,
- The stone contributes to the conservation and enhancement of the built environment, both through new development and the maintenance of historic buildings.
- A supply of stone from Stanton Moor prevents the import of stone from overseas.

Four letters and two emails of support have been received from companies working in the stone industry (including masons, and architects), their views are summarised as follows:

- Concerned that planning applications are blocked by local objection with no regard to the need for a continuous supply of local stone.
- If quarries are not permitted generally, then stone will have to be imported.
- Stone from this area is used locally, regionally and nationally for architectural projects.
- It is more sustainable for stone to have an end-use for building stone, than aggregate, as it lasts for a long time.
- The stone maintains our distinct and valued heritage.
- Good restoration can benefit the environment.

Ten comments have been received through the PDNPA website in support of the application, four of these messages are from employees of the applicant. The messages are summarised as follows:

- The quarry extension is a good idea as it provides employment.
- The proposal would ensure a supply of stone which would enable houses and buildings to be in-keeping with the area.

A further two letters of support have been received from members of the public . The letters are summarised as follows:

- A more detailed assessment of the damaging effects of re-opening Lees Cross and Endcliffe could have been made.
- The proposed extension would have less impact than re-opening Lees Cross and Endcliffe.
- Provided the landowner and the operator agree to the revocation of Lees Cross and Endcliffe then the size of the proposed extension is acceptable.
- Clarification is required regarding whether the existing permitted reserve at Dale View is included or excluded from the total stated in the application.
- Concerned that the operator may choose to implement the Dale View Environment Act ROMP conditions in part, then the reduced vehicle movements, annual tonnage and different end date proposed would not be realised.
- Concerned that limiting conditions in the event of approval could be changed by application in future.
- The proposal gives little consideration to the environmental impact of quarry traffic on rural roads, although the volume of quarry traffic is not untoward. The operator should contribute to the extraordinary maintenance of the highway, in order that the character is not damaged.
- The application refers to restoration works to Lees Cross and Endcliffe Quarries, and further detail of this is required, including whether provision will be made for the claimed right of way through the site.

Letters of Objection

Stanton in Peak Parish Council, FOPD/CPRE, and the two local action groups (Stanton Lees Action Group (SLAG) and Stanton Against the Destruction of the Environment (SADE)) have formed a coalition in order to provide a consistent view from the local community and FOPD/CPRE, which, in summary, included the following:

- support the principle of extended working at Dale View in preference to the re-opening of Lees Cross and Endcliffe, but consider that the trade is inequitable.
- consider an appropriate size of extension is in the region of 650,000 tonnes, based on the mineral evaluation that was commissioned from Davis Planning Partnership, and Voaden Sandbrook, by FOPD/CPRE and SLAG.
- It is considered that there is benefit to the applicant of not having to clear the site and establish infrastructure at Lees Cross and Endcliffe.

- In general the proposed method of working the proposed extension seems suitable and they welcome the proposed reductions in output, lorry movements and times, and the retention of the voluntary routing and vehicle timing policy.

Subsequently representations have been received from the coalition group which, in summary, include the following points:

- Clarification is required regarding what the existing permitted reserve at Dale View is, and whether this is included or excluded from the total stated in the application. If there is no tonnage remaining within the current Dale View permitted area then the reduced vehicle numbers, and reduced output is meaningless as the higher level could not be implemented.
- The proposal to revoke Lees Cross and Endcliffe is of public benefit, and is in principle supported.
- However it is considered that the proposal is not an equitable trade and that a proposal in the region of 650,000 tonnes, based on the mineral evaluation that was commissioned from Davis Planning Partnership, and Voaden Sandbrook, by FOPD/CPRE and SLAG, would be acceptable. They consider that if Lees Cross and Endcliffe had modern conditions applied then the tonnage from the site would be limited, but accept that no definitive figure is available.
- Consider that the proposed extension area has no current planning permission, and so the PDNPA policies must apply and that therefore, over-riding public benefit must be demonstrated.
- The vehicle numbers proposed are unacceptable, and as this is a new application, comparing the proposed numbers with those established through the ROMP process where the existing permission was a consideration is unreasonable. Ten loads per day is suggested as a more reasonable level which would be commensurate with the suggested maximum tonnage of 650,000 tonnes.
- They express concern about the amount of stone which is not used within the National Park.
- Better working plans are required.
- The proposed restoration is supported.
- Concern expressed regarding the landscape impact of the proposal, and that this may be played down by the Environmental Statement.
- The main source of dust is considered to be the movement of road vehicles, therefore a wheel wash is sought.
- Consider that noise should be measured throughout the development if permitted, and monthly reports provided.
- Support the ecology and archaeology sections of the ES. Consider soil distribution should be appropriate to secure restoration.
- Suggest that the impacts on local amenity could be reduced by the scale of development being reduced as they propose.
- Consider that the developer should have to contribute for repairs to highway damage caused by haulage.

- They do not consider that the additional information clarifying what element of the proposed tonnage is additional tonnage (and conversely what is already permitted by the existing Dale View Permission) offers real gain to the community, as the area of proposed extension is the same. The amount of additional tonnage is still beyond that estimated as the reserve in Lees Cross and Endcliffe by the report commissioned by FOPD/CPRE & SLAG.
- The issue of the protest camp should not affect the proposal it is a separate planning issue.

A further six letters of representation objecting to the proposal have been received. These can be summarised as follows:

- Concerned that the proposal is not in accordance with the PDNPA's purpose or policies to protect residential amenity, wildlife, cultural heritage, or landscape.
- The ROMP scheme for Lees Cross and Endcliffe should be determined prior to consideration of an exchange.
- Regardless of Stanton Moor Principles, the primary consideration should be primary strategic objectives of the National Park and the well-being of local communities.
- Previous applications at Dale View have been refused.
- A policy of containment should be applied to quarry development.
- Do not consider that the proposed exchange is equitable in tonnes or environmental impact.
- Stability of Stanton Moor.
- Traffic movements proposed are excessive.
- End use of the stone should be restricted to preservation and renovation.

Other Correspondence

A further letter has been received from the National Trust, the neighbouring land owner. The letter includes the following points:

- The National Trust urges the Authority to give careful consideration to the proposals.
- The letter asks that the Authority, if minded to grant permission for the development, seek not just to remove existing mineral rights, but to prevent any future applications for development being made.
- Further detail of restoration required at Lees Cross and Endcliffe is needed.
- Potential impacts on tourists and recreational users of the area should be considered.
- The National Trust understand that there is a demand for building stone.
- The National Trust is concerned about possible visual impact and that the Authority should pay close attention to the adequacy of the mitigation measures proposed.

The Amended Proposal

At the Planning Committee on 16 March 2007, the Committee resolved to defer consideration of the application in order to provide a period for negotiation between officers and the applicant, taking into account the position of the coalition of action groups who considered the proposal inequitable.

Following discussions between the applicant and officers, the applicant submitted additional information, which has been subject to full consultation.

The additional information is provided on the basis that the applicant does not accept the findings of the Davis Planning Partnership report, on the basis on which the protest group coalition considered that an equitable exchange would release around 650,000 tonnes. The report is considered to be insufficient by the applicant for a number of reasons, including: that the authors are not technically qualified geotechnical consultants; that the report lacks detail to substantiate its conclusions; that the report is considered to seek to minimise reserves to provide a starting position in potential revocation of Lees Cross and Endcliffe, rather than an estimate of actual reserves; over-reliance on information which does not constitute part of the 1952 decision letter; restrictions on waste handling and depth of extraction are challenged.

The additional information includes a reduced tonnage, reduced extraction surface area, and reduced vehicle movements from the original submission. The applicant has reduced the scale of the proposal in order to try to achieve a compromise on the scale of development, in order to secure support from the protest groups, rather than on the basis that they agree that a lower tonnage is available at Lees Cross and Endcliffe.

The total tonnage which would be achieved from the revised working plans is 1.04 million tonnes. Due to the working scheme forgoing 150,000 tonnes of stone from within the red line area, which could be worked under the existing permission, the total additional tonnage, which is sought in relation to the relinquishment of Lees Cross and Endcliffe is 946,550 tonnes.

The vehicle movements are proposed to be reduced to 36 movements (18 in and 18 out) per day, and 5 pre-notified annual occurrences of 50 movements (25 in, 25 out).

At the March meeting one member of the public raised the issue of highway contributions, and suggested that the figure of up to £1000 (index linked) was insufficient. This was the level suggested by the Highway Authority, and in the additional information the applicant agrees to provide any other 'reasonable amount' suggested by the Highway Authority.

Amended Proposal: Consultation Responses

The additional information has been subject to full consultation. Responses have been received from the following statutory consultees.

Derbyshire County
Council Highways -

The contribution will only be utilised to deal with localised repairs on the nearby highway network which are directly attributable to the developers activities, subject to joint inspection as previously suggested. Confirm that they have 'no objection to the sum of £1000 being increased if the National Park Authority considers this to be appropriate'.

Following receipt of this response officers were concerned that an increase in the amount, not based on highways expertise may not meet the tests for a legal agreement (see below). Officers contacted the highway authority and asked if they could provide an expert view on what a reasonably related sum may be.

The Highway Authority provided a response by email and suggest, based on the scale of the development, and the length of highway along which it will be feasible to attribute to the developers activity a maximum sum of up to £2000 per annum. They remind the Authority that not all of this sum will be spent each year, and so not all this sum will be contributed each year.

Natural England - No objection to the additional information, but ask that the earlier consultation responses (including that from English Nature), be taken into account.

PDNPA Landscape - No further comments.

PDNPA Archaeology - No further comments.

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PDNPA Countryside and Economy - No further comments.

Additional Information Representations

The only representation made in response to the additional information was from the coalition group of Stanton in Peak Parish Council, FOPD/CPRE, and the two local action groups.

FOPD/CPRE, Stanton in Peak Parish Council, SLAG and SADE - The coalition were involved in discussion with the applicant following March Planning Committee and prior to the submission of additional information. They set out their position to the applicant.

The additional information provided addresses previous concerns. The coalition refute the criticisms of the Davis Planning Partnership Report's estimate of reserves at Lees Cross and Endcliffe. The response is made without prejudice to the Report.

The coalition now support the proposed development.

Main Policies

MPS1: Planning and Minerals.

MPS2: Controlling and mitigating the environmental effects of mineral extraction in England.

PPS7: Sustainable Development in Rural Areas.

PPS9: Biodiversity and Geological Conservation.

Regional Spatial Strategy (RSS) 8: RSS8 (published March 2005) provides a broad development strategy for the East Midlands up to 2021. For the purposes of the RSS, the whole of the Peak District National Park, which includes areas outside Derbyshire, is treated as part of the East Midlands Region.

The RSS recognises the National Park as a unique asset, the designation conferring the highest status of protection as far as landscape and scenic beauty are concerned.

Of particular relevance to this proposal are RSS 8 policies 30, 37.

Relevant Structure Plan policies include: GS1, C2, C15 M2, M3, M7, T1

Relevant Local Plan policies include: LM1, LM2, LM6 and LC21

Planning Obligation Tests

A number of matters proposed could not be secured by condition and would instead have to be secured by a legal agreement under s106 of the Town and Country Planning Act 1990. Government guidance is a material consideration in determining planning applications. Circular 05/2005 provides the government's current guidance regarding planning obligations and includes a series of policy tests which should all be met before matters are included in planning obligations. The circular states that it is ultimately a matter for the Courts to decide whether an obligation is valid and material in any particular case. The Courts have found that obligations that go beyond the policy tests but nevertheless meet the statutory requirements of the 1990 Act are still valid and material.

The tests under Circular 05/2005 require that a planning obligation must be:

- relevant to planning;
- necessary to make the proposed development acceptable in planning terms;
- directly related to the development;
- fairly and reasonably related in scale and kind to the proposed development;
- reasonable in all other respects.

Compliance with these tests is considered below in relation to the various matters.

Comment

The Proposed Extension

The application includes the existing site and a proposed extension area of 3.18 hectares. The existing permission would be revoked by way of legal agreement in the event that permission was granted, and the entire site would be controlled by one permission.

The revocation of the existing permission at Dale View is considered to meet all the all tests set out in the circular for planning obligations.

The replacement of the existing permissions would provide clarity and would make it clear that the limiting conditions, for example relating to tonnage, and end date, are those attached to the latter permission - this would be in the public interest to ensure that the development was in accordance with policy and is relevant planning and necessary to make the development acceptable in planning terms. The replacement of the existing permission at Dale View is directly related to the proposal, as the application covers the entire area of the existing permission, and is fairly and reasonably related to the proposed development and reasonable in all other respects.

The application initially stated that 1.324 million tonnes of gritstone would be extracted, over 21 years, with a maximum output in each year of 62,500 tonnes of gritstone. Additional information has identified that this total tonnage includes 200,000 to 250,000 tonnes that is currently permitted for extraction in Dale View quarry under the existing permission. The amount of gritstone to be extracted was subsequently reduced by the revised proposal, following planning committee's deferral of consideration of the application, to 1.19 million tonnes. Taking into account the 250,000 tonnes of stone within the red line, which already benefits from planning permission, (of which, around 150,000 tonnes would remain unworked), the proposal therefore seeks 940,000 tonnes of additional tonnage.

It is proposed that a maximum of 500 tonnes per annum would be sold as rip-rap for flood defence works, and all other stone would be restricted to an end use of block stone for construction, building and monumental works.

The end-use restriction would be secured by legal agreement. This meets the policy tests for planning obligations. The restriction of the end use is related to planning and necessary to make the proposal acceptable in planning terms, as policy LM6 requires that building stone proposals will only be acceptable provided the stone will not be used for aggregate purposes, and RSS policy 37 requires that development plans make provision for a progressive reduction in the proportion and amounts of aggregates from the National Park. This restriction would ensure that when gritstone extraction is permitted, it is used sustainably. Restricting the end use is directly related to the proposed development and is reasonably related to the proposed development. Restricting the end use is reasonable in all other respects.

The scale of the proposal is large and the development is major in terms of scale and its potential impacts.

PPS7 sets out the government's position regarding major development in national parks in PPS7: sustainable development in rural areas. Nationally designated areas comprising National Parks, the Broads, the New Forest Heritage Area and Areas of Outstanding Natural Beauty (AONB), have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas. The conservation of wildlife and the cultural heritage are important considerations in all these areas. They are a specific purpose for National Parks, where they should also be given great weight in planning policies and development control decisions. As well as reflecting these priorities, planning policies in LDDs and where appropriate, RSS, should also support suitably located and designed development necessary to facilitate the economic and social well-being of these designated areas and their communities, including the provision of adequate housing to meet identified local needs.

Major developments should not take place in these designated areas, except in exceptional circumstances. This policy includes major development proposals that raise issues of national significance. Because of the serious impact that major developments may have on these areas of natural beauty, and taking account of the recreational opportunities that they provide, applications for all such developments should be subject to the most rigorous examination. Major development proposals should be demonstrated to be in the public interest before being allowed to proceed. Consideration of such applications should therefore include an assessment of:

- (i) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- (ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- (iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Planning authorities should ensure that any planning permission granted for major developments in these designated areas should be carried out to high environmental standards through the application of appropriate conditions where necessary.

MPS 1: Planning and Minerals, sets out the governments position in relation to mineral development and reinforces the position set out in PPS 7, specifically with reference to minerals development.

Major development is contrary to policy M3 other than in exceptional circumstances where the Authority is convinced that the development is essential to meet a national need which overrides the national policy to protect the National Park.

It cannot be convincingly demonstrated that there is a national need for the development, since other resources of gritstone exist outside of the National Park. Furthermore the Peak District National Park has approximately 9.4 million tonnes of gritstone/sandstone already permitted for extraction. The proposed extension cannot be considered to be in accordance with these policies in its own right, and must be fully considered with the proposed relinquishment of Lees Cross and Endcliffe.

The Impacts of the Development

An extensive Environmental Statement has been provided.

Landscape

The site is located adjacent to Lees Road, and is visible from it. The footpaths onto Stanton Moor from Lees Road have a gentle incline, and so the site of the proposed extension is visible from here. Long range views of the site are from the other side of the valley, from Darley Dale, from the road up to Beeley Moor and from parts of Rowsley.

The proposal would intensify the cumulative impact of quarrying in the area from the current level as it would extend Dale View Quarry, and at the current time Lees Cross and Endcliffe are dormant so do not have a current impact.

The phased working proposed would ensure that the landscape mitigation proposed would be implemented at the initial stages, and this could be secured by condition. The phasing would ensure that the active area of quarrying was minimised throughout the development, and that restoration was undertaken on areas where extraction was completed throughout the course of the development.

A number of specific measures are proposed in order to mitigate the landscape impact.

The retention of the mature trees alongside Lees Road and the formation of a 2m high bund behind the mature trees alongside Lees Road prior to the extension being commenced is proposed.

Initially it was proposed that the bund be planted in order to 'soften' the feature in the landscape. However, the Authority's Tree Conservation Officer and Landscape Architect advised that this planting may damage the established trees. In addition, tree planting at Dale View and other sites in the vicinity has been extremely difficult to successfully establish largely due to the deer population in the area. Any tree planting undertaken would require fencing to exclude deer, and this requires robust fencing, 2m in height. Planting on the bund itself would have to be accompanied by a deer fence, which is not considered acceptable along the length of the proposed extension, due to the scale and appearance of the fencing.

Furthermore, planting the bund would lead to the bund's permanent retention in the landscape, as it would be undesirable in restoration to remove planting which had become established.

As the planting is not required to screen the development, a revised profile for the bund, to be set back from the established trees, was negotiated. This is considered to be a better option, and would be seeded and mown for the duration of the development, and regraded in the restoration of the site.

Also proposed as mitigation is the regrading of the existing tip at the east of the site, to create a more gentle natural profile in the wider landscape. This was suggested at a pre-application stage by the Authority's Landscape Architect and was included in the application. This would create a better profile for the tip and would be carried out in the first two years of the development. During the site operation, there would be an additional screen bund of two metres at the crest which would screen long range views into the site. This regraded tip profile would allow the profile of the final restoration levels to integrate with the surrounding landscape more successfully.

The application proposes that the existing entrance continues to be used off Lees Road. The proposal includes the retention of the weighbridge and office at the entrance of the site, but proposes that the compound for plant and a staff amenity building is relocated to the north of the site. Although the proposed new compound area is at a higher level within the site, it is proposed to reduce the level of tipped material in this area before constructing the compound and mounding be used to screen the buildings. Relocation of the compound and staff amenity building to the north would reduce the amount of infrastructure visible from Lees Road, and the entrance area would have a less developed appearance.

In addition the former entrance off Lees Road which has been walled around would be removed and the dry stone wall reinstated along Lees Road. It is proposed that the railings at the entrance would be repainted to a more appropriate colour than their current yellow. The development will also necessitate the removal of the overhead power line which runs through the middle of the proposed extension site. This will be routed underground alongside Lees Road and would remain there after completion of the development.

Tree planting is proposed to the west of the entrance, and this would require deer fencing in order to ensure its success. In this restricted area, it is considered that the fencing would be acceptable for a limited period. Tree planting is also proposed to the north east of the site which would provide screening for long range views, deer fencing in this location would not be prominent. The development could be conditioned to ensure that the fencing was removed once the trees had reached a height of 4m when the trees would be less likely to be browsed by deer.

The proposed restoration is to a lower level landform with a graded profile rising from east to west and from the south to the north. A rock face is proposed to be retained on the less prominent face. Reprofiling of the old waste tip to the waste is proposed in part of the restoration works. This is considered to be acceptable in the wider landscape. The afteruse proposed to predominantly hay-meadow is acceptable in landscape terms.

The mitigation proposed to reduce the impact of the development is considered to be acceptable and officers consider that the proposed development can be controlled to minimise the adverse effects on the characteristics and amenity of the area, in terms of landscape impact, the proposal is in accordance with policies C2, LM1 and M7.

Furthermore the development proposed is in a less exposed position than Lees Cross and Endcliffe and it is considered that the landscape impacts of this proposal are less significant, and more easily mitigated than the likely impacts of development at Lees Cross and Endcliffe.

Ecology

The proposed extension site is currently neutral grassland, in agricultural use. This would be lost through the proposed development, although soils would be retained on site for use in restoration.

Surveys have been carried out in relation to protected species, and have identified that none will be affected by the proposed development. Ten mature trees will need to be felled along field boundaries inside the proposed extension area, and some of these indicate potential for bat roosting. English Nature requires that bat boxes be placed in Sheepwalk Wood in order to

mitigate for this loss. The applicant has agreed to this, and has a lease over part of Sheepwalk Wood to facilitate this. In addition, the application proposes that felled timber from the trees be placed in piles in proximity to Sheepwalk Wood habitat for saproxylic invertebrates such as stag beetles which depend on dead wood. It is proposed that the mature trees would be replaced by field boundary planting at restoration.

There are fields to the east and west of the application area which the application proposes will be managed throughout the development and restoration as hay meadow grassland. This would secure this BAP habitat in the long term and would be used to provide a seed source for the restoration of the application site itself. This land management would require securing by legal agreement.

The management of these fields as hay meadow is considered to meet the tests relating to planning obligations. The management of the fields is relevant to planning as it will assist in the maintenance of biodiversity during the course of the development, and facilitate the enhancement of the biodiversity in the locality in the restoration by providing a seed source, this is in accordance with PPS9, which includes that 'planning decisions should aim to maintain and enhance, restore or add biodiversity'. The maintenance of the fields as hay meadow will mitigate for the loss of habitat during the development and is important in ensuring that there is an appropriate local seed source for restoration of the extension, it is necessary to make the proposed development acceptable in planning terms and is directly related to the proposed development. The management of the fields as hay meadow is fair and reasonably related to the scale of the development, and is reasonable in all other respects.

It is proposed that the site will be subject to a low intensity agricultural afteruse over the majority of the site, in order to manage and maintain the hay meadow. The restoration would also include the replacement of drystone wall field boundaries, as close as possible along the lines of those in place currently. In addition the retention of some low height quarry faces to promote ecological diversity is proposed. Scattered tree planting along the dry stone walls in the site is proposed. A bond is proposed to guarantee restoration works in the event of failure of the operator. This would be secured by legal agreement.

The provision of a bond meets the Circular's tests 05/2005 in relation to planning obligations. It is relevant to planning as it will ensure the site is satisfactorily restored in line with policy. It is necessary to make the proposed development acceptable in planning terms, as surety in relation to restoration is essential. It is directly related to the development and is fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

The long term aftercare is proposed over 20 years after site restoration, and this could be secured by legal agreement. The landowner has agreed in writing that the long term management of the site as hay meadow is acceptable.

It is considered that the long term aftercare is relevant to planning as it is in accordance with the test for planning obligations. It is relevant to planning as it is in accordance with PPS9's aim that development should enhance biodiversity, and it ensures that the development is in accordance with development plan policies LM2 and M7. The long term aftercare is necessary to make the proposed development acceptable in planning terms as without long term management there would be no certainty that the restoration would enhance the biodiversity and mitigate for the loss of the grassland habitat in the course of the development, although it should be noted that other than through this development proposal there is no formal basis for securing the long-term conservation management of the grassland. The long term aftercare is directly related to the proposed development, as mineral working is required to be restored, and if it were managed as hay meadow for a shorter period, it would not be an acceptable restoration proposal in policy terms as this would potentially fail as a habitat. The long term aftercare is fairly and reasonably related to the development proposed and is reasonable in all other aspects.

In summary, the proposed extension site has little ecological value, and the loss of features of interest in the short term, such as the mature trees, will be mitigated by retention of the felled timber for habitat creation and placement of bat boxes, and in the long term will be replaced. The grassland habitat which is lost in the short term will be replaced by more ecologically diverse habitat in restoration, and the long term management proposed will secure this habitat's retention in the long term. The measures proposed would acceptably mitigate for the impact of the development, and the restoration would secure improvement in the long term from the current position. The development is in accordance with policies LM1 and M7 as the development can be controlled to minimise harm to the ecology, and is in accordance with policy LM2 and M7 as the restoration would enhance the current ecological position.

In addition, the proposed revocation of Lees Cross and Endcliffe would secure a habitat that includes BAP quality Oak Woodland. This is a developed habitat which is established, mature and an ancient woodland site of local and regional ecological interest. Higher interest exists at the Lees Cross and Endcliffe sites and the exchange would result in lower overall ecological loss or disturbance. Additionally, due to the habitats involved, the Dale View Quarry has potential to be restored to its previous interest, or enhanced more quickly than Lees Cross and Endcliffe. This is a relevant material consideration.

Archaeology

The proposed quarry extension site is situated around 250m north of Stanton Moor. Stanton Moor has extensive archaeological interest in relation to Bronze Age remains and includes an extensive Scheduled Ancient Monument. An archaeological investigation has been carried out as part of the EIA.

A desk study was carried out which considered existing archaeological records and surveys.

A geophysical survey was carried out, which identified features to be investigated further by trenching.

The results of the 33 trenches identified the following features of interest:

- parallel ditch alignments;
- A small sub-rectangular pit;
- five flint artefacts;
- a scatter of chert tools
- a fragment of Beaker pottery

The fragment of Beaker pottery is the most significant of the items, and is fully detailed in the Environmental Statement.

The fragment is 24mmx26mm and appears to come from a small vessel. Although Beaker burials on the limestone plateau of the Peak District are well known, this is the first recognition of Beaker pottery found on Stanton Moor. A few examples have been found from the gritstone moors bordering the River Derwent but it is scarce away from the limestone.

The Bronze Age burials typical of Stanton Moor are associated generally with Collared Urns. Theoretically, this could have overlapped with the period when Beakers were still in use locally. The fragment of pottery raises significant questions about the nature of activities on the northern part of the moor in this later third and early second millennia BC.

The Authority's archaeologist considers that the archaeological investigation to date has been sufficient to identify that the development is acceptable, and that the archaeological interest does not warrant preservation in situ.

In order to mitigate the effect of the proposed quarrying, and the irrevocable loss of the archaeology in situ, it would be necessary for those parts of the site containing the most important archaeological features to be subject to open area excavation, prior to quarrying, or any other works involving soil stripping or disturbance, taking place in each phase. This would ensure that the full character of the archaeological remains are recorded, and that material is collected to inform the dating, function and use of the site through this time.

The open area excavation prior to development commencing is proposed in the ES as mitigation.

The open area excavation as mitigation can be secured by way of a condition, on a phased basis to reflect the proposed phased extraction.

At the initial consultation stage the Authority's Archaeologist and English Heritage both objected to planting proposed alongside footpath S9, which is 10m from the scheduled ancient monument. This was on the basis that the land had not undergone archaeological investigation and the tree planting may have significant negative impacts on buried archaeological remains which have not been evaluated. In addition, the planting would not be in keeping with the historic landscape character and the local form of land enclosure, and the cumulative visual effect on the anticipatory approach and setting of the monument would be negative. It was considered that the effectiveness or necessity of the planting as a screen was not demonstrated. The Authority's Landscape Architect was consulted and advised that the proposed bunding (as amended), and retention of trees along Lees Road were sufficient to mitigate the landscape impact from the footpath. The planting alongside footpath S9 was subsequently withdrawn from the proposal by the applicant.

The proposed development is in accordance with policies LM1 and M7 as the adverse impact on the heritage features can be mitigated by condition.

Traffic

The application initially proposed 50 vehicle movements per day (25 in, 25 out) for the total operation. The maximum annual tonnage proposed is 62,500 tonnes. This equates to an average of 30 vehicle movements per day (15 in, 15 out). a higher number was proposed in order to maintain flexibility and address peaks in demand for the product.

The current permitted level of vehicle numbers is 60 per day (30 in, 30 out). Although the proposed numbers are a reduction from the current permitted level, the ES traffic impact assessment shows that the current average level of HGV movements from the site is 30 (15 in, 15 out).

The ES compares the actual current level of operations with the average proposed level of vehicle movements and demonstrates that the proposal represents a proposed small increase in average HGV movements of 0.6 loads per day.

In addition, the reduction in permitted tonnage and maximum permitted vehicle movements would ensure greater certainty about the level of development in the long term. It would not be possible to increase the scale of development without applying for a formal amendment to conditions.

Following deferral of consideration of the proposal by Planning Committee in March, the proposal was amended, and the number of vehicle movements was reduced to a proposed level of 36 movements (18 in and 18 out) per day, with 5 pre-notified days per year of an elevated number of vehicle movements, up to a maximum of 50 movements per day (25 in, 25 out), in order to address peaks in demand.

It is proposed that vehicle movements be restricted to 07:00 to 19:00 Monday to Thursday, and 07:00 to 13:00 on Friday. It is proposed that no lorry movements will take place on a Saturday, with the exception of a maximum of five Saturdays in any calendar year, which would be the subject of prior notification to the Authority and to a nominated local resident.

The majority (99%) of the stone worked from the quarry goes directly to the applicant's stone sawing facility at Grangemill. Vehicles making the return journey transport stone offcuts from the processing, which are used for backfill in restoring the site.

The applicant currently uses an informally agreed route, turning left out of the site and proceeding through Pilhough and Rowsley to the A6, and then turning left on to the B5056 to Grangemill. On return journeys, the vehicles turn right off the B5056, and proceed through Stanton in Peak and onto Lees Road to the quarry. The C143 through Stanton in Peak is of insufficient width in places to allow HGV's to pass one another, and the neighbouring operator uses a similar directional route which ensures that the quarry traffic does not pass each other.

The Highway Authority identifies that while the proposal does not demonstrate an increase in HGV levels, it would perpetuate the current activity for a prolonged period. On this basis the Highway Authority has asked that the applicant's agreement be secured to carry out an annual inspection with the relevant Highway Care Manager, of the road between the eastern limit of Stanton in Peak and the northern end of Peaktor Lane. The applicant has agreed this, and to pay a maximum sum of £2000 (index linked) per annum, as suggested by the Highway Authority, for works identified as necessary to ameliorate the accelerated attrition of the highway margins caused by HGV traffic. This can be secured by legal agreement. Officers consider that it would be unreasonable to extend the maximum limit beyond that suggested by the Highway Authority.

The annual highway inspection and works up to a value of £2000 (index linked) to ameliorate the accelerated attrition to highway margins, is relevant to planning, as policy LM1 requires that the impacts of nuisance and general disturbance to the amenity of the area (including that caused by transport be reduced to the minimum practicable level. It is directly related to the proposed development, and as a specific level of contribution and piece of highway has been identified, it is reasonably related in scale and kind to the proposed development. It is reasonable in all other respects.

In addition, the Highway Authority requires that the visual splays at the site be maintained, and agrees that rather than removal of mature trees the crowns should be lifted to 2.4m above highway level. This can be controlled by condition.

It has been suggested by letters of representation that the informal routing agreement be formalised, and that the installation of a wheel wash be required by condition.

It is considered that routing is not something which can be reasonably or effectively controlled by legal agreement, with the exception of signs at site entrances instructing drivers to turn left (or right as appropriate). Beyond the site entrance the relevant Highway Authority can impose highway restrictions to limit or control HGV use, and the government considers that it is unreasonable for planning authorities to further impose restriction.

The operator of any mineral site has a duty to keep the highway clean of mud and debris. Wheel washes can be used to secure this where necessary. At Dale View, the road going HGV's are loaded on the tarmac area, and there is no cross contamination with quarry plant. The operator has a road sweeper and uses this twice a week. In the event of an incidence of mud on the road the road sweeper could be used to ensure that the requirement to keep the road free of mud and dirt is upheld. Few recent complaints have been recorded by the Authority regarding mud on the road, and officers do not consider this issue to warrant measures above and beyond the regular use of a road sweeper and additional road sweeping if required.

Traffic is a sensitive issue in relation to the quarry development in this area. Access routes to and from the site are narrow rural roads that are poorly aligned with steep gradients. The roads are subject to 12 m length Restriction Order, which limits lorries to 4, 6 and 8 wheeler rigid chassis configuration, other than for movement of heavy plant and a 7.5 tonne Weight Restriction Order. The road network would not be considered acceptable to serve any new mineral proposal in the locality in relation to policy LM1. However, there would be some level of permitted level of traffic associated with the re-opening of Lees Cross and Endcliffe, and that and the current actual level of traffic from Dale View are both a material consideration. On this matter, the proposal is considered contrary to policies LM1 and T1.

Noise, Dust and Vibration

It is proposed that the stone be worked by removing stone from the faces with a hydraulic excavator, and then split into smaller sizes using black powder blasting. No further processing would take place on the site. Quarry development work (soil stripping, tipping waste stone in restoration etc) also constitutes part of the proposed development which could cause environmental disturbance such as noise, dust or vibration.

Dust

The ES concludes that on the basis of the climatic conditions on the site and the operations proposed, it is unlikely that any decrease in local air quality would occur through the proposed development. Any dust event would be limited and of short duration. In addition, the ES considers the likely effect of dust particulates, in accordance with the National Air Quality Objectives, and concludes that the proposed development would not increase risk to human health.

It is proposed that dust arising can be minimised by use of fixed internal haul routes and speed controls in the site, and by progressive restoration which would ensure that the area exposed to wind erosion would be minimised. Any dust generated can be mitigated by the use of water, and a road sweeper as necessary.

The District Council Environmental Health Officer is satisfied that the measures proposed are suitable to minimise and control dust generation, and asks that these measures are imposed by way of condition.

It is considered that the proposed development can be acceptably controlled by condition and is in accordance with policies LM1 and M7.

Vibration

The black powder blasting proposed is the only likely source of vibration. Black powder is placed into holes drilled into a large block of stone, a charge is added and the explosive is detonated to split rather than shatter the stone. This is an extremely low impact form of explosive technique and is unlikely to have significant effect.

Nevertheless, the Environmental Health Officer has suggested that a condition be applied to ensure that the effects of vibration are controlled. The applicant considers that this would be acceptable.

It is considered that the proposed development can be acceptably controlled by condition and is in accordance with policies LM1, and M7.

Noise

The ES contains a noise survey and additional information was submitted at request to show the existing noise levels over a longer period of time.

In establishing the existing noise levels, readings were carried out with Dale View Quarry operational. This has resulted in there being little difference between the current and predicted levels. The ES concludes that the noise levels at the 3 closest properties will not exceed 43 dB Laeq 1h.

Mineral Policy Statement 2 (MPS2) contains the latest government policy advice in relation to noise. It advises that conditions be applied by authorities to ensure that noise arising from mineral working does not usually exceed 10 dB Laeq 1h above existing levels, but that it will not be reasonable to require noise remain below 55 dB Laeq 1h.

MPS2 advises that authorities should consider allowing an increased noise level of 70 dB Laeq 1h for a maximum of eight pre-notified weeks per year to facilitate site preparation works such as mound creation and soil stripping. The ES identifies that the noise during soil stripping will not exceed 43 dB Laeq 1h. Therefore, it is considered unnecessary to apply an increased upward limit in this case.

10dB Laeq 1h over the current levels recorded would be 52.8 dB Laeq 1h. The highest level predicted is 43 dB Laeq 1h. The current levels were recorded with the existing quarry in operation, and the proposed development would increase the quarry by area, but the proposal does not involve intensifying quarrying operations. It is considered reasonable that conditions be applied to the development, in the event of approval, restricting the noise levels to not more than 55dB Laeq 1h in accordance with MPS2.

The proposal includes working between 07:00 and 19:00, and the noise levels predicted are below those set out in the government guidance for daytime mineral working.

The ES states that reversing beepers do not contribute to recorded noise measurements due to their limited incidents. The applicant has agreed that other forms of reversing warning systems which do not carry so far are acceptable and agree that a condition restricting bleeping alerts is acceptable but subject to still meeting safety requirements.

Under previous government guidance which has now been replaced, the effects of proposed development on very quiet rural areas was specifically referred to. Officers asked applicants to consider noise levels at public footpaths in light of the rural nature of the area and the recreational use of the National Park for public enjoyment. The current guidance specifically identifies that receptors are residential properties, and this makes it difficult for the Authority to consider the effects of proposals on the recreational use of the National Park. However, the applicant agreed to carry out a noise prediction at footpaths S9 and S10, and at the Nine Ladies Stone Circle, which are the likely recreational receptors in the vicinity.

The ES predicts likely noise levels as follows:

- at S9 to be a maximum of 60 dB LAeq 1h during soil stripping and 56 dB LAeq 1h during extraction.
- at S10 to be a maximum of 49 dB LAeq 1h during soil stripping and 45dB LAeq 1h during extraction.
- at the Nine Ladies to be a maximum of 40dB LAeq 1h during soil stripping and 38dB LAeq 1h during extraction.

Although the levels at the footpaths are high for a rural area the level will diminish further from the quarry. The level at the Nine Ladies is within the spectrum of normal rural background levels.

One letter of representation has requested that noise monitoring be carried out as a permanent operation. The Environmental Health Officer does not consider this is practical as the equipment is not designed to be used in this way. It is normal practice that in the event of complaint the Environmental Health Officer would investigate and identify the noise levels and patterns.

The noise levels, restriction of reversing beepers and hours of operation can be controlled by conditions.

It is considered that the proposed development can be acceptably controlled by condition and is in accordance with policies LM1, C15 and M7.

Furthermore, is considered that the likely effects of noise and dust in particular would be more significant at Lees Cross and Endcliffe due to their closer proximity to properties in Stanton Lees and to the central part of Stanton Moor.

Employment

The employment policies in the Structure Plan (E1-E4) do not deal with employment of this nature and other policies such as minerals and conservation policies are given greater weight. It is important to note that the need for the minerals justifies employment but the need for employment does not justify mineral extraction in a National Park as confirmed at the Examination in Public into the Structure Plan in 1994 and re-iterated in the Local Plan.

The Stanton Moor Principles

In October 2000 the Authority's Planning Control Committee, following consultation with community groups, and local representatives of the quarrying industry, considered a report and resolved that the following principles shall be a material consideration in the determination of planning applications in the vicinity of Stanton Moor:

- (a) There is an acceptance that quarrying for building stone will continue in the area for the foreseeable future. The Authority encourages the use of natural stone for building provided the scale and the environmental impact of working can be adequately controlled or mitigated. A number of the consents in the locality do not expire until 2042. Mineral working will therefore continue to have an impact on the local area particularly in terms of traffic generation. The emphasis must therefore be on controlling this impact rather than believing that it can be eliminated.
- (b) The Authority has a responsibility for conserving the landscape, wildlife and cultural heritage of the area. In particular it would wish to see the cessation or very severe curtailment of working in the central section which includes Lees Cross/Endcliffe and Stanton Moor quarries. These sites adjoin or overlap the Scheduled Ancient Monument and any working would be likely to cause environmental damage and would spoil the special character of the area. There are however valid planning consents covering these areas and these are unlikely to be given up lightly by the landowners and operators. As a general principle the Authority would wish to see working concentrated in the northern and southern groups of quarries.
- (c) Any proposals for variation or extension of existing workings must also put forward an acceptable means of minimising the impact of working and traffic on local residents. This is likely to involve restrictions on lorry movements and/or new or improved lorry routes.

The above principles are therefore, a material consideration in the determination of this proposal.

The application is in accordance with the above principles. If permitted it would lead to the revocation without compensation of Lees Cross and Endcliffe Quarries, and permit an extension to the existing Dale View Quarry, away from the central section of the moor.

However, the principles are not the only material consideration and all proposals must be considered against the Authority's policies and any other relevant material considerations.

Lees Cross and Endcliffe

By offering the revocation of Lees Cross and Endcliffe in relation to the extension to Dale View, the applicant is in effect proposing the exchange of one site for another.

Lees Cross and Endcliffe Quarries can be worked for gritstone by virtue of a Ministerial decision letter issued in 1952. Along with other old minerals permissions this needed to be updated under the provisions of the Environment Act 1995. In 1996, the Authority classified the Lees Cross and Endcliffe quarries as a 'dormant' site under the Act. As such, no working could take place under the 1952 permission, until modern conditions were imposed and finally determined under the 1995 Act. In 1999, the company submitted a proposed scheme of conditions proposing the extraction of 2.1 million tonnes of stone.

The quarries are very significant in terms of their location immediately adjacent to Stanton Moor, the Scheduled Ancient Monument and near to properties in Stanton Lees and strong concerns were expressed from many quarters about the prospect of them being worked again. However, the ROMP provisions do not allow authorities to make determinations which in effect revoke the old mineral permissions, and reasonable conditions must be applied, non withstanding whether mineral extraction would be acceptable in principle under modern policy tests.

A protest camp was established on the site in opposition to re-opening the quarries in 1999. The protest camp has been subject to objection from some local residents, and the planning position has been considered by the Authority. The protest camp and its future is not a material consideration in the determination of this proposal, as this is a separate issue that should be resolved in its own right and is subject to separate reports to the Planning Committee.

In December 2003 Stancliffe Stone disclosed legal advice to the Authority and the public, that in their view the site should have been classed as 'active'. On this basis a legal challenge was made to the dormant status. At the same time the operator submitted a revised scheme of conditions proposing the extraction of 3.3 million tonnes of stone over the next 40 years. This revised proposal was accompanied by an Environmental Statement. There is uncertainty over the validity of the 2003 submission since the 1995 Act only allows each interested party one submission for a site and that submission was made in 1999. Although the 1999 submission was inadequate and further information was requested to allow determination of the scheme of conditions, the 2003 re-submission includes additional information but also effectively presents a materially different scheme of conditions for working the site.

During several months of discussions in late 2003 and early 2004, Authority officers discussed alternatives with the company that might be more in accordance with the Authority's previously stated 'Stanton Moor principles'. Despite those discussions, the company pursued the status of Lees Cross and Endcliffe in the High Court. Officers continued throughout 2004 to encourage the company to reconsider its approach and look at other options.

In June 2004 the High Court ruled that the Authority was justified in classifying Lees Cross and Endcliffe Quarries as dormant under the terms of the 1995 Environment Act. A subsequent appeal to the Court of Appeal in 2005 was unsuccessful and Lees Cross and Endcliffe remain dormant.

Following the legal rulings, the company has again changed the planning agent that it uses to advise its position. In 2005, discussions were held without prejudice to the formal planning process that the Authority has to follow. It was emphasised that the future processing of any planning application would be carefully scrutinized, not just by the Authority but also by many interests, and that officers would give proper regard to all relevant aspects in making any recommendation. In particular, the starting point for the Authority is that an extension to Dale View Quarry is in principle contrary to policy. Therefore reasons for making an exception to policy would have to be fully justified. The Authority would only be able to reach a view on an exchange proposal once that planning process was complete.

In order to inform the Authority's position in relation to the possible determination of the ROMP Scheme at Lees Cross and Endcliffe, or potential application for an extension to Dale View Quarry in exchange for revocation of Lees Cross and Endcliffe, the Authority commissioned independent geological and valuation consultants GWP to assess the position at Lees Cross and Endcliffe. GWP consultants have expertise in geology, geotechnics, mining engineering, hydrogeology, hydrology and surveying, specifically in relation to quarrying and mining.

The estimation of reserves by the Authority's geotechnical consultant took into account information submitted by Stancliffe Stone, geological conditions in the site, safe working practices, environmental constraints and constraints of the planning permission. A spectrum of volume estimates was produced with an upward limit of 1,060,800 net tonnes. The spectrum of figures has been made available to the applicant and was used to inform the application now under consideration.

Around the same time, FOPD/CPRE and SLAG commissioned an assessment of the likely reserves at Lees Cross and Endcliffe Quarries. This assessment was carried out by Davis Planning Partnership and Voaden Sandbrook Ltd. The tonnage which this report identified as a workable tonnage is 662, 298 tonnes, based on their interpretation of the parameters of the 1952 permission.

It is evident that the various assessments identify a wide range of possible volumes of stone available at Lees Cross and Endcliffe. A number of factors are used to inform the expert opinions of the tonnage available. Some of these relevant factors are variable and the experts base their views on informed assessment of the factors. These variable or uncertain factors include the following:

- the assessment of the geology in the site;
- the assessment of how much of the stone available would constitute waste;
- the lack of approved working plans clearly demonstrating how the site is to be worked;
- the interpretation of safe working requirements, and the impact that the geology would have on this.

It is considered that the advice received by the Authority is robust and presents an accurate estimation of what level of tonnage could feasibly be realised at Lees Cross and Endcliffe.

Furthermore, Lees Cross and Endcliffe have a surface area of 11.6 ha, while the proposed area of extension at Dale View Quarry is significantly smaller at 3.18 ha, with the area of extraction further reduced by the revised proposal. The area of disturbance is therefore less in the proposed development.

One way in which more certainty about feasible tonnage could be achieved would be through determination of modern conditions at Lees Cross and Endcliffe, and it has been suggested in some letters of representation, that the Authority should complete that process before considering an exchange of land, as is proposed in the application.

On first consideration, this would appear to be a logical approach. However, there is likely to be a number of problems with this approach.

A valid planning permission for the winning and working of sandstone/gritstone exists at Lees Cross and Endcliffe and the final determination of modern conditions would make the site active and available for working at any time in the future, potentially up until 2042. It is considered that working in that location is wholly unacceptable and would cause irreparable damage to the archaeology, ecology and landscape of the National Park. It would be entirely at odds with National Park purposes.

Stancliffe Stone's maximum estimated net tonnage at Lees Cross and Endcliffe is over 3.3 million tonnes. The Authority's consultants consider that there is a maximum of just over 1 million net tonnes. There is evidently considerable disparity over the volume of stone available at Lees Cross and Endcliffe.

As the site is dormant, the Authority is able to be restrictive in the application of conditions. However, the Authority must be reasonable in its application of conditions, and must apply restrictive conditions on an evidential basis, not in an effort to unreasonably curtail the development, or to make the site effectively unworkable.

Furthermore, it is likely that due to the fundamental disagreement between the Authority and Stancliffe Stone regarding the maximum tonnage available from Lees Cross and Endcliffe, any restrictive determination made by the Authority would be subject to appeal. Following the appeal process, which may ultimately be resolved in the Courts, officers consider that there is a significant likelihood that Stancliffe Stone may not wish to make a further investment to apply for an exchange and would instead implement the permission at Lees Cross and Endcliffe.

The risk of possible appeal of a ROMP determination in itself is not a material consideration in the determination of the exchange application now before the Authority. However, it is relevant to the consideration of the suggestion that the Authority should proceed to determination of the ROMP scheme prior to consideration of the current exchange proposal. It is a material consideration to consider whether the risk of working at Lees Cross and Endcliffe would be acceptable, even if it were restricted as far as was reasonably possible.

Officers consider that it is not premature to consider the exchange application at this time. Although there is a broad spectrum of assessments of tonnage available at Lees Cross and Endcliffe, the size of the proposed extension to Dale View does not just reflect Stancliffe Stone's assessment. The size of the extension applied for is significantly smaller than the tonnage identified in the ROMP scheme submitted.

One of the letters of representation suggests that the Authority should seek the revocation of the 1952 permission at Lees Cross and Endcliffe as proposed by the applicant, and additionally seek to curtail rights to apply for mineral development on the land in future. It is not lawfully possible to prevent future applications being made. Any such application would have to be dealt with on its own merits.

Major development of the type proposed is contrary to policies PPS7, MPS1 and M3 other than in exceptional circumstances where the Authority is convinced that the development is essential to meet a national need which overrides the national policy to protect the National Park. It cannot be convincingly demonstrated that there is a national need for the development, and other alternative reserves and resources of gritstone exist outside of the National Park. Furthermore within the Peak District National Park, as at the end of 2004, around 9.4 million tonnes of gritstone/sandstone was already permitted for extraction.

However, the proposed extension would not significantly increase the amount of gritstone permitted for extraction in the National Park, as the revocation of Lees Cross and Endcliffe is proposed. The revocation of Lees Cross and Endcliffe in exchange for an extension to Dale View would create net environmental benefit to the National Park, as greater environmental interest exists at Lees Cross and Endcliffe. It is considered that Lees Cross and Endcliffe is a more damaging alternative than the proposal, and this is a material consideration. However, other resources of gritstone exist outside the National Park which would be less damaging to the National Park. On this basis the proposal could therefore be considered to be contrary to policy M2 of the Structure Plan, although material considerations appear to exist in support of the proposal since the alternative to this proposal is the working of the existing permission at Lees Cross and Endcliffe, which is not acceptable. On balance, the proposal is considered to be of overall benefit to the environment of the National Park in accordance with PPS7, MPS1, GS1 and M2.

It is considered that the revocation of the 1952 permission at Lees Cross and Endcliffe meets the tests for planning obligations.

The revocation without compensation of the 1952 permission is relevant to planning. The development plan requires that the impacts of development be minimised, the working of the proposed extension at Dale View would have a lesser environmental impact than the working of the existing 1952 permission at Lees Cross and Endcliffe. The proposed revocation without compensation of Lees Cross and Endcliffe is necessary to make the proposed extension of Dale View acceptable, being an exceptional circumstance which would lead to greater conservation of the National Park overall, and justifying major development which, otherwise, is not acceptable in policy terms.

The proposed revocation of the 1952 permission at Lees Cross and Endcliffe is fairly and reasonably related in scale and kind to the proposed development, as the size of the proposed extension is not unacceptable given the Authority's consultants assessment of the size of reserve available at Lees Cross and Endcliffe, and the greater surface area of Lees Cross and Endcliffe. It is reasonable in all other respects.

Furthermore, the principle of granting permission for development at one site in exchange for the giving-up of a permission at another was accepted by Ouseley J in the Winster judicial review.

As the proposal includes the relinquishment of the Lees Cross and Endcliffe planning permission, consideration needs to be given to the potential for an application to be made under the Mines Working Facilities Support Act 1966 by a person interested in acquiring or being granted the rights to work. The interested person must show that it has not been practicable to negotiate private arrangements to work the mineral and be able to satisfy the Court that the grant of a right is expedient in the national interest. It is considered unlikely that an application would succeed in relation to Lees Cross and Endcliffe since sufficient permitted reserves of sandstone are considered to exist to meet national need requirements.

Conclusion

The proposed extension to Dale View Quarry is major development and would not generally be acceptable in policy terms. However, officers consider that the proposal would result in the net conservation and enhancement of the National Park

In considering the application there is a need to take into account national, regional and local policies, consultation responses, representations, the application and environmental statement and all relevant material considerations.

Government guidance advises that in dealing with planning applications, local planning authorities should consider each on its merits and reach a decision based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements, they may be refused. However, in some instances, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of planning conditions, or where this is not possible, through planning obligations.

An exceptional circumstance has been demonstrated in that the proposal includes the voluntary revocation without compensation of Lees Cross and Endcliffe, a site with greater environmental and amenity value. The effects of working the proposed extension will be less than the effects of working Lees Cross and Endcliffe. This implements policy GS1 and is a material consideration. In addition, the applicant has demonstrated that the proposed development could be controlled to minimise the impact of the development and has proposed measures to offer enhancement in the long term.

The proposed extension is commensurate with the Authority's expert evaluation of the likely available tonnage at Lees Cross and Endcliffe.

The proposal is contrary to T1 and LM1 insofar as the effects of the traffic on amenity cannot be acceptably mitigated. However, the pre-existing consent at Lees Cross and Endcliffe and the lack of significant increase from current levels is a material consideration which in this circumstance is considered to justify a recommendation contrary to policy.

The proposal is also contrary to policy M3, in that no exceptional circumstance has been demonstrated whereby the development is required to meet a national need which overrides the national policy to protect the national park. Officers consider that, in the event of approval, the development should be referred to the Secretary of State, to assess whether she wishes to call in the proposal.

As the application is contrary to policy it will be necessary to refer the matter to a meeting of the Authority.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

RECOMMENDATION:

It is resolved that:

- 1. The application be referred to a meeting of the Authority.**
- 2. The Secretary of State be informed that the Authority is minded to approve the application as a Departure from the Development Plan on the basis outlined in recommendation 3.**
- 3. That subject to the above and to the prior completion of a Section 106 legal agreement whereby the applicant formally agrees to:**
 - a) The revocation of the planning permission ref. 1898/9/20 for the winning and working of sandstone issued on 6 February 1952 relating to land at Lees Cross and Endcliffe without compensation;**
 - b) The revocation of the planning permission ref. NP/DDD/0197/058 issued on 30 April 1997 for the determination of conditions under the Environment Act 1995 relating**

to land at Dale View Quarry without compensation; the revocation of the 1952 planning permission ref. 1898/9/20 for the winning and working of sandstone issued on 6 February 1952 relating to land at Palmers Pilhough Quarry (Dale View Quarry) without compensation and; the revocation of the 1990 planning permission ref NP/DDD/690/321 issued on 20 August 1990 for the stabilisation of tip, tipping and regarding relating to land at Dale View Quarry without compensation.

- c) The management of fields shown on application plan M/S147/06/05 as hay meadow for the duration of the development;
- d) The end-use of the stone restricted to a total of 62,000 tonnes per annum as block stone, with the exception of up to 500 tonnes per year from within the 62,000 tonnes total for rip-rap (for flood defence works);
- e) Pay for the annual inspection of the highway and the repair to highway margins necessary due to accelerated attrition caused by HGV's, up to a maximum annual expenditure of £2000 per annum (index linked);
- f) A bond to secure restoration;
- g) The aftercare of the proposed extension site as low intensity agriculture hay meadow for 20 years following completion of the development;

the application ref: NP/DDD/0606/0613 be APPROVED subject to conditions covering the following broad issues:

Duration;

Hours of operation;

Haulage, including up to 36 vehicle movements (18 in, 18 out) Monday to Friday and 5 pre-notified days per annum of 50 movements, (25 in, 25 out);

Phasing of works;

Output;

Site Access;

Planting;

Ecology;

Landscape;

Archaeology;

Noise;

Blasting;

Dust

- 4. That authority be delegated to the Head of Planning Service and the Head of Law jointly to determine the details of the Section 106 agreement.
- 5. That authority be delegated to the Head of Planning Service to approve the final details of the conditions.

List of Background Papers (not previously published)

Nil