

AGENDA ITEM No. 7

PEAK DISTRICT NATIONAL PARK AUTHORITY

NATIONAL PARK AUTHORITY MEETING

7 DECEMBER 2007

STRATEGY & DEVELOPMENT

PART A

1. QUARRYING AT LONGSTONE EDGE (MIN.2382/JJL/DGB/GPR)

Purpose of Report

- 1 To advise Members of the current quarrying situation at Backdale and Wagers Flat, Longstone Edge, and to outline the legal matters arising. Additional information on legal proceedings and financial matters arising is provided in a Part B report.

2 RECOMMENDATION:

That Members note with concern the continued unresolved enforcement and other legal action to prevent unlawful quarrying activity at Longstone Edge, and resolve to consider further action under exempt business at today's meeting.

Legal Situation

Backdale

- 3 On 26 April 2007 a Planning Inspector upheld, with amendments, the Authority's enforcement notice against unlawful limestone extraction at Backdale. As a result of amendments to the area of land affected by the enforcement notice officers withdrew the Backdale stop notice by letter of 24th July 2007 following discussions with Counsel. Bleaklow Industries Limited (BIL) and MMC Mineral Processing Limited (MMC) were advised that the Authority would monitor activity at the site and that the withdrawal of the notice was without prejudice to the Authority's ability to serve a further notice if it considered that mineral working was taking place at the site in breach of planning control. The companies were advised that if it was intended to start work at Backdale the Authority should be provided with detailed working proposals. Members endorsed the withdrawal of the stop notice at the Authority Meeting on 5 October 2007 (Minute 100/07).
- 4 At the Authority Meeting on 6 July Members were advised that BIL had applied to the High Court for leave to challenge the Planning Inspector's decision. The application for leave to challenge was granted in the High Court on 5 November and the appeal will be heard on 27/28 February 2008 if the Treasury's Solicitor defends it. If the challenge in the High Court is eventually successful, the Planning Inspectorate would have to consider the decision afresh. If the challenge is unsuccessful BIL might seek leave to appeal to the Court of Appeal. Therefore the time it could take for eventual final resolution could be extended.

Wagers Flat

- 5 Enforcement and stop notices were served against unlawful limestone extraction at Wagers Flat in May this year. Both BIL and MMC appealed the enforcement notice and an inquiry into that appeal has now been set for up to 8 days commencing 13 May 2008.

In response to requests made by the companies the Planning Inspectorate has now agreed that it will consider whether the Authority's enforcement notice is a nullity in a separate advance part of the inquiry. Dates for that are 21/22 February 2008. Both parts of the inquiry will be held at Calver Village Hall. If the Authority's notice is deemed a nullity then it and the associated stop notice both fall. Officers are already considering with Counsel how to proceed if that situation arises. The Planning Inspectorate has also advised that a pre-inquiry meeting is proposed for 17 December 2007.

Quarrying Situation

- 6 Planning Committee was advised in September there was some activity at both sites. At Backdale a quarry blast took place. At Wagers Flat some crushed limestone material was removed. Officers have continued to monitor the sites and to assemble information that will help to decide what further action might be expedient.

Wagers Flat

- 7 We received a letter dated 27 September 2007 from solicitors for the quarrying company advising that MMC intended to recommence work at Wagers Flat within a matter of weeks. The letter stated that the work would be carried out in compliance with the terms of the stop notice, but without prejudice to MMC's interpretation of the permission. The letter also stated that MMC would only extract limestone which it was necessary to extract in order to extract the fluorspar. MMC considers that this limestone would be secondary and subordinate.
- 8 The letter did not explain if and how any fluorspar is to be sold from the site, nor did it explain what MMC's intentions are for the current crushed limestone on the site. Officers sought further information and a response is being considered. At the time of writing work has not re-commenced at Wagers Flat.
- 9 Officers have previously served planning contravention notices on both BIL and MMC to ascertain the amount of material already sold from Wagers Flat. The responses show that between September 2006, when mineral working began, and 15 May 2007, when the stop notice was served, the company sold 2,006.9 tonnes of fluorspar and 107,810.97 tonnes of limestone.

Backdale

- 10 Activity re-commenced with a quarry blast on 17 September. At a monitoring visit on 4 October the quarry manager explained that the blast was to help provide access to a vein in the south-west of the site. Further blasting would follow. Further activity was also starting in the north-east of the site – the quarry manager explained that this was to access another vein. The quarry manager considered this activity lawful within the permission.
- 11 Activity increased during October and Officers sought further information and arranged a geo-technical survey of the quarry site. The results of this survey were received in mid-November and have been compared with those from a survey carried out in May 2006 shortly after the most recent stop notice was served. The difference in the results show the amount of stone removed since activity re-commenced in September 2007. This indicates that up to 50,000 tonnes of limestone have been removed.
- 12 It is the view of Officers that this represents a breach of the planning permission and the enforcement notice and that this is causing significant landscape impact at Backdale. Members are asked to consider the issues arising under Part B on today's agenda.

Public communications

- 13 During the summer months there was no activity of concern at Backdale or Wagers Flat. However, activities at both sites in late summer re-awakened concerns. Officers have sought to re-assure the public that activities are being closely monitored and considered with Counsel, with a view to deciding the best course of action that can control activity that the Authority considers unlawful. The officers' advice is covered in today's report and in a separate Part B report.
- 14 The Authority's Communications Service set up an e-mail distribution list for keeping the public informed of changes to the legal courses of action. This method of communication has been used on several occasions since May.
- 15 The Director of Strategy & Development has responded to requests for updates made by Save Longstone Edge Group (SLEG) by holding meetings on agreed occasions with representatives of the SLEG committee. These meetings have also given SLEG the opportunity to make clear its continuing concerns about lack of resolution of the quarrying damage.

APPENDIX

Human Rights aspects including Equal Opportunities, Health and Safety

16 There are none apparent.

Consultations

17 The Chief Finance Officer, Head of Law, Minerals Planning Team and Director of Corporate Resources were consulted during the preparation of this report.

Report Author

18 John Lomas

List of Background Papers (not previously published)

19 None

Publication date

20 29 November 2007