

**AGENDA ITEM No. 7**

PEAK DISTRICT NATIONAL PARK AUTHORITY

NATIONAL PARK AUTHORITY MEETING

28 MARCH 2008

STRATEGY & DEVELOPMENT

PART A

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

**Purpose of Report**

1 To advise Members of the legal developments concerning limestone extraction at Longstone Edge following the High Court hearing on 27-29 February 2008, and to introduce the issues that now have to be considered. Discussions with the Authority's Counsel and with Defra are continuing, and a transcript of the judge's decision is awaited. An update on those matters will be given to Members by a tabled Part B report at the Authority Meeting.

**2 RECOMMENDATION:**

**That the outcome of the High Court hearing held on 27-29 February 2008 be noted as a significant cause of concern and that further action be considered under exempt business at the meeting.**

**High Court Hearing, 27-29 February 2009**

3 The High Court hearing was into an appeal by Bleaklow Industries Limited (BIL) against the decision on 26 April 2007 of the Planning Inspector Mr Baldock to uphold, with amendments, the Authority's enforcement notice against unlawful limestone extraction at Backdale.

4 The Inspector's decision was defended at the hearing by Counsel appointed by the Treasury Solicitor on behalf of the Department of Communities and Local Government (CLG), and the Authority's Counsel also spoke against BIL's case. MMC Mineral Processing Limited (MMC) supported BIL's case. The Inspector's decision had included his interpretation of the 1952 planning permission and all parties at the High Court hearing asked the judge to give a view on the interpretation. It is essential to the resolution of this case that the meaning of the permission is determined.

5 The judge gave his judgment on Friday 7 March and the court order has now been received. The judge has allowed BIL's appeal and remitted the Inspector's decision back to the Planning Inspectorate for re-hearing and re-determination in the light of his judgment. At the time of writing this report for the Authority Meeting we are awaiting a transcript of the judgment, which will include the judge's interpretation of the permission. The judge made clear at the end of the hearing that he did not accept the Inspector's interpretation, nor that of the Authority, and that he thought it lawful for the operators to remove as much limestone as they considered necessary in order to win and work the flourspar and that this limestone may be sold.

6 It appears therefore that the judge's interpretation will allow significant removal and sale of limestone under the 1952 permission and that could year-by-year result in further significant damage to the eastern end of Longstone Edge. Both CLG and the Authority

need to examine the judgment carefully, to consider the consequences and whether there is a basis to seek leave to appeal against it. Once the transcript of the judgment has been received there is a period of 21 days during which a request to seek leave to appeal has to be made.

7 Officers have kept Defra informed of the developments in the case and a meeting has now been arranged for the Chair, the Chief Executive and the Director of Strategy & Development to meet the Minister Jonathan Shaw MP and his officers before the date of the Authority Meeting.

8 Other related issues are as follows.

- The Authority's enforcement notice and stop notice against workings at Backdale. Now that the judge has allowed BIL's appeal against the Inspector's decision to uphold the enforcement notice, the Inspectorate will have to reconsider the case unless the Authority withdraws the notice.
- The Authority's enforcement notice and stop notice against workings at Wagers Flat. There is a public inquiry scheduled for 8 days commencing 13 May 2008 to hear appeals by BIL and MMC against the enforcement notice but the implications of the judge's decision now have to be considered.
- A challenge by BIL and MMC that the Authority's enforcement notice for Wagers Flat was a nullity. The Planning Inspector Mr Self gave a decision in February that the Authority's notice was not a nullity.
- There remains a need for a permanent solution to prevent continuing damage to Longstone Edge. This issue will feature in all further discussions.

### **Quarrying Situation**

9 Backdale. Activity ended in May 2006 when the Authority served a stop notice but recommenced in September 2007 as a consequence of the Authority serving a stop notice at Wagers Flat in May 2007 and withdrawing the Backdale stop notice in July 2007. MMC's quarry manager considered this renewed activity to be lawful within the permission, to gain access to fluorspar veins. The Authority subsequently gathered detailed geo-technical information about the activity and served a new Backdale stop notice in January 2008 against what was considered to be unlawful limestone removal. MMC carried on working.

10 Wagers Flat. At the time of writing this report there appears, from information currently available, to have been no new quarrying at Wagers Flat since the stop notice was served in May 2007 although we are aware that some processed limestone was removed from the site.

### **Public Communications**

11 The Authority uses an e-mail distribution list for keeping the public informed.. There are presently 117 on the list, including several parish councils. Several people joined the list at the public drop-in event at Calver on 18 February, which was attended by 46 people. The feedback forms from the event were generally appreciative of the format of the event.

12 The Director of Strategy & Development holds meetings on request with representatives of the Save Longstone Edge Group (SLEG) committee. Several SLEG representatives came to the drop-in event and discussed issues with the Chair of the Authority and the Director. SLEG has arranged a public meeting for 8 April which the Director will attend.

## **APPENDIX**

### **Background**

- 13 A detailed background paper was attached to the Part B agenda item 9.1 to the Authority on 7 December 2007.

### **Human Rights aspects including Equal Opportunities, Health and Safety**

- 14 There are none apparent.

### **Consultations**

- 15 The Head of Law, the Minerals Team Manager and Senior Minerals Planner were consulted on this report.

### **Report Author**

- 16 John Lomas

### **List of Background Papers** (not previously published)

- 17 None