

AGENDA ITEM No. 4

PEAK DISTRICT NATIONAL PARK AUTHORITY

SPECIAL AUTHORITY MEETING

30 JANUARY 2009

STRATEGY & DEVELOPMENT

PART A

1. FULL APPLICATION – PROPOSED EXTRACTION OF FLUORSPAR ORE AND ASSOCIATED VEIN MINERAL BY OPEN PIT METHODS FROM AN EXTENSION TO THE WORKINGS AT TEARSALL, SOUTH DARLEY – GLEBE MINES (NP/DDD/0208/0104, M10213, 30/01/2008, 426201/360188 RJB)

Key Issues

The key issues raised in this report are:

- Whether the application can be safely worked as proposed;
- The need for the mineral;
- The impacts on the environment and amenities of the locality;
- Is there compliance with the Development Plan;
- Are there exceptional circumstances that justify departure.

The application was considered by the Planning Committee on 12 December 2008 and referred to the Authority to allow for consideration of the policy issues and for further outstanding information to be received and considered.

Officers now consider that the previously outstanding technical matters relating to method of working and stability can be resolved. Further information has been submitted on noise and dust impacts and it is considered that these can be adequately controlled through the imposition of conditions. Further landscape and visual assessment has also been undertaken and it is considered that there is some opportunity for mitigation although the impacts remain. However, on balance, it is advised that, because the planning gain offered provides significant overall environmental benefit to the National Park, approval of the application is recommended. The application is, however, an exception to policy and if approved by the Authority, the development should be referred to the Secretary of State, to assess whether she wishes to 'call in' the proposal.

The Site

Tearsall lies on the northern edge of Bonsall Moor and overlooks Wensley Dale and the Derwent Valley. Wensley is 0.6 km to the north, Winster 2 km to the northwest, Brightgate and Bonsall 0.5 km and 2 km to the southeast and Matlock 3.5 km to the east. Tearsall Farm is the nearest property and lies about 100m southwest of the site. Access to the site is from Bonsall Lane, a minor road which runs between Bonsall and the B5056 to the west.

The application site includes the Tearsall quarry/landfill site that was formerly worked for fluorspar and limestone by a different operator. Working ceased in December 2003 and waste importation ceased in June 2005. Some regrading of the deposited waste material has been undertaken but the site has not been fully restored and enforcement action is pending against the final restoration in the event that this application is refused. The total application area covers 11.95 hectares which includes the proposed extension to the west and northwest into 3 fields of agricultural grazing land.

Constraints identified outside the application site but in the immediate locality are Mount Pleasant and Northern Dale Scheduled Ancient Monuments, Masson Hill Site of Special Scientific Interest and "Toothbrush Wood" Tree Preservation Order. A Regionally Important Geological Site (RIGS) is recorded at the site. A public bridleway was previously diverted to the south and west of the existing quarry and runs through the proposed extension area.

History

Mineral extraction commenced at Tearsall in 1972. In 1986 permission was granted until May 2000 for removal of up to 1 part limestone for every 3 parts of vein mineral. The main planning permission at the Tearsall site was approved in 2000. Permission for extraction expired on 30 December 2003 and restoration was to be completed by 30 June 2004. Final restoration at Tearsall Quarry has not been completed. The application submitted in December 2004 to amend the restoration by continuation of infilling with waste materials was refused. Enforcement action to require the restoration of the site using the materials already on site has been put on hold so as not to prejudice the determination of this application.

Over the last 20 years there has been a series of applications and correspondence dealing with the removal of limestone/vein mineral & waste importation/restoration issues.

(Refer Appendix 1 for details)

Proposal

The application area covers 11.95 hectares with an area of excavation of 10.37 hectares to give 660,000 tonnes of fluorspar in total. Extraction is proposed to take 6 years with the site being progressively restored to an agricultural grazing afteruse. The overall duration would be 7 years to include one year final restoration. The application proposes 5 phases of working in an east to west direction progressively moving northwards (down slope) to a maximum depth of 45 metres. The whole of the northern face in the existing quarry was proposed to be worked back to the site boundary in Phase 4, but this is now no longer proposed in the amended plans.

All limestone other that contained within the fluorspar ore will be retained on site for use as backfill to restore progressively both the existing quarry and the extended workings. The previously imported inert waste materials within the quarry will be retained & regraded within the existing site and it is now proposed that all movement of landfill materials will be completed prior to 16 July 2009. There will be temporary stockpiling of limestone within the existing quarry.

There would be between 110,000 to 120,000 tonnes of fluorspar ore removed per annum and a maximum of 50 vehicle movements (25 in 25 out) daily Monday to Friday. All mineral removed from the site would be taken to Cavendish Mill for processing. Proposed hours of working are 7am to 5.30pm Monday to Friday, and 7am to 1pm Saturday for maintenance work only.

A bridleway and footpath are proposed to be permanently diverted along the western perimeter of the application area. At the end of restoration a further footpath would be created across the site. Biodiversity would be encouraged through the retention of quarry faces in the final restoration and creation of ponds. A restoration bond has been offered.

The application is accompanied by an Environmental Statement covering landscape and visual impact assessment, ecology and nature conservation, archaeology and cultural heritage, noise, air quality and a traffic impact assessment.

Additional information and revisions to the proposals have been submitted on the following occasions, essentially in response to issues raised by the Authority's Officers and Consultant:

1) Additional environmental information covering ecological and archaeological surveys and mitigation received 4 and 9 July 2008.

2) Additional invertebrate survey & updated report received 22 July 2008. Supplementary report on geotechnical issues and revised phasing plans and cross-sections received 1 August 2008 following the Authority's Consultant's concerns, with regards to stability, access, tonnages, and the treatment of waste material within the existing quarry. These show intermediate benching to give reduced face heights, increased depth of working in Phase 1, limited working of the northern face in the existing quarry, amended backfill and soil placement details and details of a haul road. A revised restoration plan was also submitted on 6 August 2008 because of these amendments to the working scheme. A further plan showing the treatment of the landfill by July 2009 was also provided on 6 August 2008 and which supersedes parts of the revised phasing plans. The tonnage of fluorspar remains unchanged.

3) In response to continued concerns from the Authority's Consultant, clarification statement on geotechnical issues, reserves and tonnages and revised phasing plans, cross-sections, waste re-profiling and restoration plans submitted on 28 August 2008.

4) Supplementary statement relating to geotechnical and environmental issues including reassessment of environmental impacts and amendments to the traffic section of the Environmental Statement submitted on 12 September 2008. Revised phasing plans also submitted. An annual payment is also proposed for verge/passing place maintenance.

5) Revised phasing and restoration plans submitted on 19 September 2008.

6) Additional and replacement documents submitted on 22 October 2008 including restoration management plan, replacement landscape and visual impact assessment, replacement revised waste profile, revised phasing and restoration plans. Proposed planning obligations dated 17 October 2008 covering: an agreement not to use their rights to extract minerals from the eastern end of Longstone Edge for as long as ore supply continues from Tearsall; seeking to achieve a production level of 33.33% from underground as a proportion of total acid grade fluorspar output from Cavendish Mill; a land management agreement.

7) Additional and replacement documents submitted on 12 November 2008 including cross-sections, total excavation plan, amended plan for area of temporary ore storage, amended restoration plan, indicative timing plans for Phase 1, comments on geological/geotechnical, ecology, landscape & rights of way matters. Further clarification of proposed planning obligations submitted on 20 November 2008 & 21 November 2008 to: not use rights to extract minerals from the Peak Pasture area of Longstone Edge for a period of 4 years from the granting of Tearsall; achieve a minimum 10% level of underground ore production by 2011; extend aftercare for Tearsall by a 5 year period.

8) Additional and replacement documents submitted between 4 and 9 December 2008 including an amended working plan for Phase 1 which replaces the previous Phase 1 and 1A plans. Further clarification has also been submitted on geological/geotechnical matters, environmental impacts and the proposed planning obligation relating to Peak Pasture. The applicant also submitted a response on 10 December 2008 to the Authority's Consultant's comments on this submitted information.

9) Additional documents submitted on 19 December 2008 clarifying the planning obligations, and environmental and technical issues.

None of the revisions have resulted in variations being made to the proposed overall phasing, tonnage and duration.

Consultations

There have been 10 separate rounds of consultation: initially with the application submitted in February 2008; then the additional environmental information submitted on 2, 4 and 9 July 2008; the technical reports on geotechnical & geological matters together with revised phasing and restoration plans on 1 August 2008; the supplementary report on geotechnical issues received on 1 August 2008; the clarification statement relating to geo-technical issues, reserves and tonnage received on 28 August 2008; the supplementary statement relating to geotechnical and environmental issues received on 12 September 2008; the revised drawings to accompany the aforementioned supplementary statement received on the 19 September 2008; the additional and replacement documents and proposed planning obligations submitted on 22 October 2008; the additional and replacement documents and proposed planning obligations submitted on 12, 20 & 21 November 2008; the additional and replacement documents submitted on 9 & 10 December 2008; and the additional documents submitted on 19 December 2008.

Responses to consultations are summarised as follows:

Highway Authority – It has been indicated that the traffic generated will have little impact on the highway network beyond Bonsall Lane, but Bonsall Lane would be subject to a significant increase in traffic movement. The condition of Bonsall Lane should be monitored during the operations on a 6 monthly basis. Additional wear & tear is likely to take place as a result of the associated HGV movement. The applicant should provide the sum of £2500 a year for maintenance and repairs during the life of the development by way of a Section 106 Agreement. If the proposed operations can be restricted to commence only after completion of the restoration works, it is unlikely that highway objection would be sustainable. Recommends conditions to prevent material being deposited on the highway and to control maximum daily vehicle numbers and footnotes regarding the requirement to maintain unobstructed the public rights of way on their legal alignment without prejudicing safety of users.

Response to re-consultations – does not appear to be any additional highway implications; previous comments and recommendations still applicable.

Response to latest re-consultation – does not appear to be any additional highway implications; previous comments and recommendations still applicable. Copy forwarded to their Rights of Way Officer in view of the impact on rights of way in the vicinity of the site.

Derbyshire County Council (Planning) – initial response – there is a lack of clarity and detail in the application. Object in respect of the landscape and visual impact of the proposal on Derbyshire outside the National Park but if permission were to be granted on grounds of need for the mineral then seek to secure for the earliest implementation all measures to reduce or mitigate visual and landscape character impacts. (Refer Appendix 3 for details).

Response to third re-consultation – Concur with the comments of the Authority's Landscape Architect. Cannot see the additional information changing the authority's view.

Response to sixth re-consultation – original comments relating to views from outside the National Park still stand; there will be a sequential reduction in the potential visual impact during the first 3 phases but thereafter very little opportunity for progressive backfill. The revised restoration landform is more in keeping with the surrounding topography & several ecological/habitat enhancement proposals but internal dry stone walls should be incorporated. Despite the additional technical data there is no essential change to previous DCC report summary.

District Council – Recognises that the balance between environmental impact and economic/employment benefits will need careful consideration. However, does not have the resources to fully assess the extensive supporting information supplied and is unable to reach a conclusion and does not intend to comment from a planning viewpoint.

District Council (Environmental Health Officer) – the highest predicted noise level at the nearest property is more than 10 decibels above the existing background level. Mineral Policy Statement 2 states that the level should be set as near to the background level as possible & should not exceed 55 decibels. Recommend a level set at 53 decibels which will also include soil stripping. All vehicles on site must be fitted with beepers designed to minimise noise nuisance.

Response to latest re-consultation – there are no proposals for on site crushing and screening; blasting and working of faces will give rise to dust but not in the quantities that can arise when material is processed on the site; dust arising can be controlled by conditions; consider it unlikely that the proposed operation would come close to breaching the current air quality standards either in the immediate vicinity of the quarry or in the village of Wensley and therefore the proposed operation would not be likely to affect the health of local residents; do not feel that there will be any material effect in predicted noise levels arising from the removal of the temporary screening mounds as screening will be provided by the advancing work face as well as the permanent site perimeter bund; previous proposed condition on noise is still applicable. (Refer Appendix 2 for letter).

South Darley Parish Council – initial response – object on the following grounds: the scale of the workings appear excessive; the visual impact will be severe; increase in noise & traffic would appear to be inevitable. The considerable underground reserves of fluorspar available to Glebe Mines would create less environmental impact.

Response to first re-consultation – A winter survey for hibernating bats in the tunnels is required. Blocking off these tunnels is premature and could deny bats their usual hibernating sites. The importance of an endangered plant species found at the site has not been identified in the report. More survey work in better weather could enable a more accurate assessment of the impact on invertebrates. Dust and water pollution may have an adverse effect on the toad population.

Response to second re-consultation – the interim invertebrate report does not identify the prevailing weather conditions which is of importance as it affects the level of their activity; a nationally scarce beetle will be eradicated during topsoil removal and its re-colonisation may be slow or abandoned; the weevil is more scarce than portrayed; queries when the completed report will be available.

Response to eighth consultation - concerned that the planning committee report of 12 December does not include their response to the supplementary archaeological report. The revised photographs undertaken as a visual impact survey are not representative of the true impact. Concerned that the planning committee report does not refer to the loss of local jobs in tourism, shops, pubs and the local building industry as a result of the proposal and the unacceptable impact of the proposals on Wensley from the proposed development. Consider the survival of Cavendish Mill must be dependent on more than obtaining permission at Tearsall. For example, the cost of fluorspar as a global commodity will fall.. Therefore it may be more economic to import. The predicted increase in biodiversity will be at the cost of Slender Bedstraw, the Jewel Beetle and weevil. Consider the application area was reduced as a result of the lower than expected yield of fluorspar. They do not consider the bond to be of major significance as it would be required as part of the planning conditions. They do not consider the national need for fluorspar has been demonstrated. The consequences of the company's reserve position should not be allowed to influence the planning decision. The time limited cessation of working on Longstone Edge does not appear to be of significant benefit to the residents of South Darley Parish, the time period having been eroded from 6 years to 4 years. The time period may be insufficient to resolve the legal issues on Longstone Edge. It is unlikely that the Authority will be able to accumulate sufficient funds to purchase the mineral rights at Longstone Edge. There seems little benefit in requiring Glebe to source 10% (down from 33%) of the ore from underground operations. If Tearsall were to supply 25% would 65% come from tailings and underground sources? Glebe should source their requirements from underground and make improvements to Cavendish Mill, Milldam and Longstone Edge using funds from INEOS, making the mining operations less dependent on environmentally damaging opencast schemes.

Further response – archaeological comments provided. These have been considered by the Authority's Archaeologist who is satisfied that the impact on surface and underground archaeological features affected by development can be adequately mitigated for by preservation by record and adequately controlled by conditions.

Response to latest re-consultation – The figures in Glebe's letter of 19 November 2008 should be expressed as tonnes rather than percentages and Glebe need to clarify whether it is their intention to double production from Tearsall. The extent of Glebe's leasehold and ownership details relating to the proposed planning obligation is not shown and the conveyancing plan has not been provided to determine whether Glebe have adequate rights to make the offer stated. There is insufficient evidence in relation to the rights of any other third parties to quarry Peak Pasture. It is pre-emptive to give permission for Tearsall considering that the appeal is imminent and the interpretation of permission at Longstone could materially affect the offer. Negative visual impact from lighting masts or vehicle lights during winter months. Implication in Glebe's letters of 19 November & 19 December 2008 that if the consent is granted Glebe will operate outside the terms of the consent. Stability issues should have been resolved before applying. The delay and the doubling in Glebe's ore requirement from Tearsall could result in an extra 100 lorries daily jeopardising the safety on the roads. Blasting frequency may increase to twice monthly. There will be disturbance to residents from 7am starts. There is a health risk to residents of Wensley from fine particulate dust as identified by MPS1. Noise levels will exceed the requirements of MPS2. The bund is located at the bottom of Phase 5 and will not provide protection to residents during earlier phases. The planning gain would be reduced as the requirement to use Peak Pasture would be immediately after the 4 years due to the proposed shorter period of operation. Glebe's initial offer of 30% underground mining is reduced to 15% by the end of 2011. There has been no investment in underground despite there being over 2 million tonnes available at Milldam. A maximum of 10% is now only proposed to be sourced from tailings compared to 25% previously identified. There is no proven need for fluorspar. There are doubts over the quantity and quality of fluorspar. There are no guarantees that there will not be further applications or extensions and restoration and aftercare prolonged. Peak Pasture is being used as a lever to obtain permissions elsewhere. It is the Authority's duty to protect all of the Park and not just some of it. The consequences of an appeal should not be allowed to influence the planning decision. There are 88 tourist businesses within 1.2 miles and a downturn in tourism will affect local jobs. The jobs in Runcorn are outside the remit of the National Park. There is strong public objection of 2269 letters and there will be an effect on the local economy and a decline of investment in the surrounding villages. The revised photographs are not representative of the true visual impact of the site. There will be air pollution, noise pollution, risk of ground contamination, increased risk of flooding. Habitats, archaeology, historic tunnels and soughs will not be preserved.

Winster Parish Council – initial response – approve with the observations that: no working until Bank Top (Winster) extraction is completed; surveys for bio-diversity should be undertaken in spring/summer rather than winter; assess the credibility of Glebe Mines' commitment to restoration after extraction and what guarantees are there that further applications would not be submitted to extend the site; has an 'unmet need' been demonstrated to justify further extraction having regard to Glebe Mines' significant reserves of fluorspar.

Response to second & third re-consultations – refuse. Various claims, counter claims & conflicting evidence noted in the reports recently provided by the professional consultants. Councillors were concerned with the comments relating to stability issues including the possible potential impact on the public footpath & water table. The projected volumes of fluorspar to be extracted varies in the reports.

Response to fourth & fifth re-consultations – no further comments.

Response to latest re-consultation – refuse. Previous comments are still applicable. The offer of concessions at Longstone Edge in the event of approval at Tearall should not be considered when determining the application. It is clear that this proposal at Tearsall falls outside current policy.

East Midlands Development Agency – support the application and recommend approval. Full commitment to appropriate levels of restoration and associated biodiversity improvements should be secured via planning conditions and section 106 agreements. (Refer Appendix 2 for letter)

Health & Safety Executive – factors affecting face height are more complex than the consideration of the overall stability of the excavation. The maximum height of each face will be determined by the capture height of the machinery in use at the quarry and if this is lower than the height at which the excavation will remain stable then that lower height determines the maximum height of each individual face.

Environment Agency – initial response – object as insufficient information has been received. (Refer Appendix 3 for details).

Response to second re-consultation – the proposed cut-and-fill within the permitted area will only be possible under a permit and the operator would need to ensure that the site would be fully landfill directive compliant by 16 July 2009. (Refer Appendix 3 for details).

Response to third re-consultation – need to be completely satisfied that the works will not open new pathways for the existing waste subjecting the surrounding environment to new risks. Advised that there will be no stockpiling of any material on the landfill but some overburden materials may be incorporated into the landfill restoration scheme. Based on the information received and conditions able to remove objection. (Refer Appendix 3 for details).

Response to fourth & fifth re-consultations – no further comment.

As clarification, satisfied that the works to be undertaken shall not pose an unacceptable risk to 'Controlled Waters' based on understanding that continuous water monitoring is to take place from a sump within the current landfill site and any contamination dealt with accordingly. Leachate tests are to be undertaken on any 'inert' waste material reworked and re-deposited to ensure that there is no mobilisation of contaminants to groundwater.

Natural England – initial response – no objection to the development in respect of the SSSI provided it is carried out strictly in accordance with the application and plans. Object in the absence of adequate information on bats, newts, & birds. Remain concerned about the reliance placed on partial or very old ecological information despite previous correspondence on this matter and would have expected augmentation by additional information or survey prior to resubmission. Questionable in planning terms whether so much could be legitimately covered by conditions requiring future surveys. It is difficult to state that further conditions relating to impacts will not compromise any consent given now as a result of spatial or timing restrictions which may need to be applied. (Refer Appendix 3 for details).

Response to first re-consultation – welcome the additional field survey information. Withdraws earlier objections providing mitigation covered by planning conditions. (Refer Appendix 3 for details).

Response to second re-consultation – Assessment of structures for use by roosting and hibernating bats can be difficult, however, given that the proposals will not affect the structures identified and the bats using them this condition can be discharged. Should circumstances change and work is needed which may impact on the structures subject to survey, an appropriate licence may be required. Concur with the proposals for mitigation for impacts on invertebrate communities identified and combine mitigation in both surveys.

English Heritage – initial response – content to withdraw earlier concerns about the application.

Responses to re-consultations – the application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

Ramblers – object on the grounds of: increased lorry traffic in a tranquil locality and congestion to local roads; effect of dust and noise on users of paths in the vicinity; disturbance to sites of archaeological interest; destruction of landscape that is a valued characteristic of the Park.

Authority's Archaeologist – initial response – all the pre-application field evaluation has been produced to allow mitigation by the preservation by record of surface features affected by the proposed extraction. However, no details are provided for monitoring of underground remains which should be provided before the application is determined. There should be early identification of appropriately qualified and experienced archaeologists/mining historians to avoid delay & the largely unsuccessful attempt of underground monitoring at Glebe's operation at Winster.

Response to first re-consultation – have now received the detailed outline method statement for archaeological mitigation. No further input is required at the EIA stage. If permitted, then the requirement for a detailed scheme of works for archaeological mitigation can be covered by a condition.

Response to latest re-consultation – on balance, the loss of lead mining spoil mounds 110 and 117 is slight in heritage terms as there are numerous similar features in the immediate vicinity. Preservation of the shaft tops may be desirable although they have essentially been 'preserved by record'. The proposal to construct the bridleway over one of the mounds doesn't take into account the potential instability of the ground. Potentially the most significant remains are underground and re-iterate the requirement to ensure that post-permission archaeological mitigation proposals are conducted to the letter.

Authority's Ecologist – initial response - object to the lack of adequate baseline information provided. Survey data was submitted from a survey 10 years ago and a subsequent survey was carried out at a sub optimal time of year. This information is needed prior to determination of an application. An additional botanical survey is required to identify any species rich or moderately diverse vegetation for translocation to a suitable receptor site. A presence/absence survey should be undertaken for Great Crested Newts together with mitigation measures in the light of the survey information. A bat survey is required to assess the underground mine workings and the cracks and crevices in the existing rock face and appropriate mitigation should bats be present. Notes that there will be a net loss of quarry face before and after restoration. Also bird and reptile surveys are required with mitigation if necessary. Detailed restoration and management to be agreed and to include no scrub control and either natural regeneration or seeding from a local source. Welcome provision of ponds. Longer term management beyond the 5 year aftercare period needs to be considered.

Response to first re-consultation – the supplementary ecological report addresses the majority of issues raised previously but it is incoherent and unclear in places. Revisions to the phases may influence the restoration proposals and the revised restoration plan is awaited. (Refer Appendix 3 for details).

Response to sixth re-consultation – elements of the restoration process need to be considered at this stage due to the short period before restoration begins in Phase1; additional translocation of spoil mounds should be undertaken; receptor sites for turves should be referenced; identifies matters relating to grazing; the site should be managed for a 15 year period to include the 5 year aftercare to ensure that it offers a long term opportunity for biodiversity; clarification required on ponds & treatment of cliff face; ensure suitability of bat habitats; works in phase 5 about the great crested newt receptor site & ideally there should be a buffer.

Response to eighth re-consultation – later re-consultations appear to disregard the mitigation previously proposed for the translocation of spoil mounds and for the great crested newts. Conditions should be imposed to require that the works do not have a negative effect on the biodiversity of this area. It would be beneficial for further discussions to take place to reiterate our concerns.

Response to latest re-consultation – the proposed aftercare period is still not acceptable. Although a small proportion of the site will be subject to aftercare management of approx 15 years, areas that hold present and future biodiversity interest will not be subject to this 15 year period. Additional information has been provided on the spoil mounds proposed to be affected by the perimeter bund and from an ecological point of view, it would be beneficial for these to remain in situ. Clarification is still required whether the other spoil mounds will be translocated to new locations. Welcome that comments previously made on the restoration management plan will be accepted and assume that this applies to other points previously raised.

Authority's Landscape Officer – Initial response – The proposed development lacks clarity and detail and based on the information available, recommend refusal as it has a significant landscape and visual impact on the National Park. Recommends a site inspection from viewpoints used in the report with a copy of the actual photographs being available for comparison. (Refer Appendix 3 for details).

Response to second re-consultation – the additional information answers some geotechnical queries but does not answer concerns about the impact on the landscape. It raises more concerns regarding the storage of materials and the effect on the diverted bridleway. (Refer Appendix 3 for details).

Response to sixth re-consultation – cross-sections are required to assess the final proposed landform; the existing face has interesting geological features and a photograph showing the final levels would allow the best to be retained; ponds are narrow; concerned about the possible compaction of soils in construction of the screening mounds & the visual impact on the users of the diverted bridleway; queries the standoff from the working face; no volumes are provided for soils; grazing of the soil mounds is unlikely; the site lies wholly within the White Peak Character area & the proposed extension is likely to visually affect the Derwent Valley character area & the valley farmlands with villages landscape type; identify where walling is to be undertaken; queries soiling & hydroseeding of overburden storage; amenity buildings are mentioned but their location is not identified.

Response to seventh re-consultation – the proposal will have a greater visual impact than suggested in the supporting documentation and elements within the proposals have not been fully assessed; concerns over the method of working the site and in particular Phase 1; concerns about the success of the rolling restoration scheme proposed due to the previous history of the company and which could double the impact as seen from the north and east; the proposed planning obligations do not outweigh the impact on the landscape caused by the proposals; there is no benefit to the landscape for approving the proposal; the existing quarry is currently being restored satisfactorily; the extension will delay the restoration of this site by several years; the Authority successfully defended a planning appeal for a smaller extension a few years ago. Recommends refusal on grounds of landscape and visual impacts of the proposal.

Response to eighth re-consultation – The assessment shows no difference in visual impacts despite significant differences in methods of working. The current proposal will be visually more intrusive for the majority of the phase. The number of lorry movements will have an impact on the ore storage area. Despite improvements in the method of operation in Phase 1, this phase will have a greater visual impact which has not been fully assessed. Maintains objection to the proposal.

Response to latest re-consultation – latest information appears to have corrected the discrepancies. However, despite this believe that the development would have a greater significant visual impact throughout the excavation period than is suggested, both from close views from existing footpaths/bridleways and the longer distance views. Concerned about the quality and success of the rolling restoration due to the previous history of the company. Progressive restoration will have some benefit in terms of long distance views, but unlikely to begin until Phase 1 has been completely worked. The proposed screen mound will have minimal effect for long distance viewpoints. Although it will screen the works from users of the public rights of way it will be dominant in their views of the landscape. Proposed mitigation does not overcome the impacts of the quarry. The landform provides oblique views from the valley bottom but is clearly visible from all other viewpoints. The quarry is noticeable by the location of Toothbrush Wood. Distance mitigates the effect but complaints on the original quarry used to be received from Matlock & Upper Hackney. The A6 is a major gateway to the Park.

Authority's Rights of Way Officer – initial response – further details should be provided as to the line, width & fencing proposals of the public bridleway in relation to the western side of the workings and what provisions will be in place to warn riders of blasting. Welcomes the reinstatement of the original bridleway but the Highway Authority will need to give their acceptance. The proposed diversion of the footpath from Wensley will involve a substantive deviation from the presently enjoyed route. (Refer Appendix 3 for details).

Response to second re-consultation – original concerns not addressed and revised plans raise more issues. There appears to be a proposal to store spoil on the line of the diverted bridleway. Question whether free passage of users will at all times be ensured, what alternatives would be put in place and how would these be signed, surfaced and restored. The works appear to be closer to the diverted rights of way and would like proposals for stability of the route, safety of users, available widths and maintenance of these during and after works. The previous diversion order indicated a 3 metre width but the preferred width is now 5 metres. Previous concerns reiterated.

Response to sixth re-consultation – welcome the confirmation that routes will be provided to DCC standards; notes that the plans show the bridleway at 3.5 m width instead of 5m as required; recommends joint meeting if diversion is to go ahead.

Representations

The applicant has provided a community engagement report which details the following measures undertaken: distribution of fact sheets, letters/meetings with stakeholders, a public exhibition, feedback forms, website & community information line. They state that the key issues which arose were: concerns regarding the increase in HGV movements, the ability of local infrastructure to sustain an increase in traffic, visual impact and operational noise, and the need for progressive restoration and remediation on completion of extraction.

Objections

Campaign for National Parks – objects for the following reasons: would cause visual intrusion and result in loss of amenity thus conflicting with National Park purposes which include the conservation of natural beauty; do not consider that a need for the development has been adequately proven because of the applicant's apparent disregard of extant planning consents for underground mining when assessing available reserves; contrary to policy M2(b); would not comply with government policy on mineral working in National Parks. Paragraph 14 of MPS1 states that major mineral developments in National Parks should only take place in exceptional circumstances and where they can be shown to be in the public interest and this has not been demonstrated.

Friends of the Peak District – object to the proposed development principally on the grounds that it would be contrary to policy M2(b). Concerns raised over need and current alternatives, landscape impacts, traffic & archaeology. (Refer Appendix 4 for details). Are not convinced that the proposed obligations in their current form are sufficiently beneficial to demonstrate clearly that they are in the public interest or that sufficient use is being made of reasonable alternative sources of underground ore already having the benefit of permission. Support the principle of not using the mineral rights at Peak Pasture but, it is of limited benefit in that four years is too short. The agreement only addresses potential extraction by Glebe and could allow a lease to be given to a third party. FPD are sceptical of the 400,000 tonnage ascribed to the area – at the Backdale inquiry the inspector concluded that 160,000 tonnes was the best estimate of the inferred resource. Welcome the commitment to using more underground sourced ore. Whilst noting the intention of Glebe to source 25-30% of ore from deep mining, this is not reflected in the offered minimum. To reduce the impact of mineral extraction in the Park the contribution of underground ore must be enhanced. The offer of improved aftercare at Tearsall is useful, remain concerned at the overall impact of fluorspar working and processing over Glebe's wider landholding. Disappointed that the land management offer does not include environmental improvements around Cavendish Mill, Stoney Middleton.

Save Wensley Hillside – object. It is one of the most visible mineral sites in the National Park. For more than a generation it has been a scar on the landscape & should be brought to an end to protect the natural heritage of the PDNP. Concerns raised on visual impact, rights of way, traffic, geology, need and alternatives, precedent & biodiversity. The offer of a bond is not of major significance as would be covered by planning conditions. The time-limited cessation of mining at Longstone Edge is only 'for as long as ore supply from Tearsall continues'. Seems little point in making an agreement for one third of fluorspar from underground; in order to satisfy Ineos' requirements for acid grade fluorspar they are going to have to source two thirds from tailings and underground mining. (Refer Appendix 4 for details).

Bonsall Action Group – the area is rich in history, SSSIs, beech trees, limestone walls and field barns. It is adjacent to a popular bridleway and footpath and is a beautiful part of the Peak District overlooked by residents at Darley Dale and Matlock. Bonsall is only just recovering from major quarrying activity. Funding was awarded to restore key features along the lane. Since the cessation of Tearsall, the roads have been safer, the dust has gone and wild flowers have come back. Driving on the single track road was very dangerous for drivers, walkers, tourists and horse riders. The investment in private property and land far outweighs the profits of quarrying and jobs. Tourism and quality of life has improved tremendously. Bonsall cannot sustain any more quarrying. The local economy of the Peak Park is reliant on its quality landscapes. In rural areas 60% or more of employment in tourism is stimulated by landscape quality. Bonsall Moor is a haven for growing, educational sustainable tourism. Tearsall Quarry is 300m away from the Limestone Way.

Save Longstone Edge (SLEG) - the four year commitment not to quarry Peak Pasture seems to be at risk of falling into the same trap that led to the judicial review of the Winster permission. There is no clear and unambiguous statement of the fluorspar reserves under Peak Pasture so the value of the planning gain cannot be quantified. In addition, the offer of 30% of vein mineral obtained from underground mining is not sufficient to justify the granting of the Tearsall application. The Authority should seek improvements to the settling ponds at Cavendish Mill, a commitment to source fluorspar entirely from underground operations within a short and defined period, a commitment that the settling lagoons will be phased out, and a commitment that Peak Pasture will be made safe from quarrying for all time. It is unacceptable that Peak Pasture is used as a bargaining tool every time there is a new application from Glebe. The Authority should ensure whether the bonds offered are adequate in the event of Glebe going out of business.

Darley Dale Town Council – initial response - object due to the visual impact of the application and the roads are not suitable for additional heavy traffic. (Subsequent response is 'no objection'. Refer to next section).

A total of **2,269** letters comprising 309 individual letters and 1,960 standard covering the issues summarised below and detailed in Appendix 4 have been received from residents and visitors to the National Park:

- the visual and landscape impacts conflicting with National Park policy;
- the detrimental effects on tourism/related industry through increased noise, dust, vibrations and traffic;
- only benefits a small proportion of local economy; negative impact on biodiversity;
- the lack of ecological survey information provided;
- negative impact on quality of life for residents;
- obliteration of archaeology present on site;
- negative impact on geology/hydrogeology;
- agricultural landscape downgraded;
- potential for landslide;
- the historical consent inconsistent with modern principles;
- previous refusal of similar applications on this site;
- ambiguities in clarifying whether there is a 'national need' for fluorspar;
- the potential inaccuracy of estimated ore reserves;
- the risk that restoration will be prolonged or left uncompleted;
- photo-views provided by Glebe are selective;
- the proximity to designations and landmarks;
- the potential exists to source fluorspar from alternative sites (UK/abroad);
- the likelihood that another application will be submitted to continue work after this permission has expired;
- Glebe Mines have underground reserves;
- Glebe Mine's poor environmental track record

Ecological and noise surveys have been commissioned by the residents of Wensley. The noise survey concludes that background levels are broadly in accordance with the reported level but there are properties in Wensley with lower background levels justifying a more detailed survey around Wensley. The ecological report provides a review on the reported methodology adopted & on the proposed mitigation in the supplementary report and provides detailed comments. Appraisals of need, geology, and archaeology have also been undertaken. (Refer Appendix 4 for details).

Support

Department for Business Enterprise & Regulatory Reform (DBERR) – Will have to take into account the value to the local economy and that in the North West of retaining highly skilled jobs at Glebe Mines & the Ineos sites in Runcorn. An indigenous supply of fluorspar for the UK Chemicals Industry is vital to maintain its competitiveness in a sector that is highly exposed to international trade. The potential negative effect on the supply of key chemicals that are used for water purification, healthcare & electronic products, and in the nuclear industry could have an adverse effect on the competitiveness of the UK. The government is committed to encouraging the creation and retention of highly skilled, high value-added jobs, especially in manufacturing, such as those at Ineos Fluor, Ineos Chlor and Glebe Mines. We have been advised that should the development not go ahead, there would be a significant consequence for around 1,500 jobs in the East Midlands (100) and North West (1,400). Such an impact would be detrimental to the economy in these regions, in terms of attracting further investment in those regions and the UK more generally. (Refer Appendix 2 for letter). A further letter dated 1 December 2008 identifies the commitment of government to help support business through the current economic situation, with the aim of ensuring that the UK maintains a strong and competitive position in global

markets in going forward. In addition, the letter advises the government is committed to encourage the creation and retention of highly skilled, high valued-added jobs especially in manufacturing. The letter re-iterate the views expressed in the letter of June 2008.

Ineos Fluor – Glebe Mines is the only UK source of fluorspar, a key raw material for manufacturing fluoro-chemicals, used in many vital consumer goods. There is not enough commercially available fluorspar worldwide to replace this raw material source. Planning permission is needed to enable continued operation of Glebe Mines and a large proportion of Ineos plants in Runcorn. (Refer Appendix 5 for details). A further letter dated 1 December 2008 advises that a letter has been sent to all members of the Authority setting out the company's position statement with regard to the application and the provision of the company community engagement report.

Ineos ChlorVinyls – In 2003 the UK government acknowledged the national strategic importance of the manufacturing site at Runcorn and provided a large grant to support a major investment in chlorine capacity. This is the only location in the UK which manufactures chlorine, vital to the UK's potable water supply & key to the chemical, pharmaceutical & agrochemical industries. In 2003 it was estimated that it supported 133,000 direct & indirect jobs. A condition of the grant was job generation and retention. A large proportion of the chlorine capacity is used by Ineos Fluor to produce fluoro-chemicals. In the absence of locally mined fluorspar, this fluoro-chemical production would cease, with the consequent closure of chlorine capacity and significant loss of those jobs which the UK government provided a grant to create. Refusing planning permission would run contrary to the national interest as set out by the government when the investment grant was provided.

Northwest Regional Development Agency – Without successful planning approval, Glebe Mines & the dependent manufacturing chain through to Ineos Chlorvinyl's will become uneconomic by the end of 2008. This has the potential for a loss of a turnover of £280 million per annum and 1500 jobs throughout the supply chain. Support. The current planning application is crucially important in securing the future of Ineos Fluor. Closure of Ineos Fluor's Runcorn plants would have significant knock-on effects on strategically important up-and downstream industries. The NWDA & EMDA are aware of the difficulties associated with deciding this application and have provided their perspective on the significant importance of a local, indigenous supply of fluorspar. The current economic situation facing the UK and the Northwest region is a further concern which reinforces the importance of this application to the NW economy. (Refer Appendix 2 for letters)

Chemical Industries Association – stresses the interdependent nature of chemical manufacture in the UK; the changed economic outlook affecting alternative sources of fluorspar internationally; the importance to the economy of NW England of the continuation of fluorspar mining in the area. Strongly supports. Stresses concern over job losses that would result which would be damaging to both the local & regional economy at a time of uneconomic uncertainty. Numerous delays have put pressure on Glebe's dwindling reserves of fluorspar – important given the inability to import from China. (Refer Appendix 5 for details).

Halton Borough Council – The supply of fluorspar from the PDNP is critical to the future of the chemical industry in Halton which supplies industrial users throughout the country. There is a very strong case that the economic benefit for Halton, for the NW & nationally, are of sufficient weight to justify the grant of permission. All reasonable efforts should be made to protect & enhance the character of the area by careful planning & design. It is also relevant to recognise Ineos' commitment & willingness to work with the local community. (Refer Appendix 5 for details). Reiterates support & emphasises the critical importance of Ineos to Halton Borough's economy and to the wider chemical industry. The application is vital to the economic and efficient operation of the business in Halton.

CBI East Midlands – This local source of supply sustains a vital aspect of UK manufacturing industry and petrochemical and nuclear industries and should be supported as a domestic source of fluorspar is considered to be of strategic importance to the UK there being no spare capacity elsewhere in Europe and diminishing and increasingly uneconomic availability elsewhere. If Tearsall is not approved, the site is likely to be regarded as non-viable with the loss of 100 jobs in the region. Nationally 1500 jobs may be lost principally in the Derbyshire Dales & Runcorn. The PDNP is a regional & national asset which requires protection but historically it supplied building blocks for the industrial revolution. A balance can be reached between ongoing protection & further enhancement in harmony with continued employment and economic development of Tearsall. The proposed restoration measures will be of benefit to the area. Businesses can work with the natural environment with commitment & a sensitive approach. The importance of supporting local business & national industry and how best to protect & enhance the PDNP should be taken into account.

CBI North West – Ineos Fluor is an important employer and contributor and Tearsall is vital for Ineos Fluor to continue to enhance the economy of the North West. As seen in the BGS report, the continued production of fluorspar is critical for the continued operation of Ineos Fluor and a large swathe of the chemical sector in the UK. The cessation of production at Glebe Mines would be economically damaging for the UK and would be of considerable environmental damage as chemicals would have to be transported long distances from overseas sources. The PDNP is important as an asset to the nation but can balance continued high levels of protection while allowing well managed access to and use of the minerals resources that exist there. Considers that there is an overwhelming case in support on economic and environmental grounds.

Mining Association of the UK – The Glebe operation is the only viable source of fluorspar in the UK. Refers to Planning Policy Statement 12 and the BGS report. (Refer Appendix 5 for details).

Darley Dale Town Council – subsequent response – no objection. Decision based on understanding, as advised by Glebe, that backfill and seeding of the existing site and new extension would take place on an annual basis meaning that after 6 years of extraction approximately five sixths of the whole site would have been returned to greenfield status. (Note earlier response was 'object'. Refer previous section)

The Barytes Association –The increasing unavailability of Chinese fluorspar and the impact on the domestic consumer industries for a stable supply is concerning to our members. Understand that the situation at Glebe is now critical with regard to surface ore sourcing and the continued viability of the operation depends on securing this permission. A parallel situation developed in France following the closure of their domestic fluorspar industry in 2006. Within a year the downstream hydrofluoric acid plant closed and much of their fluoro-chemical business. (refer Appendix 5 for details).

Cheshire County Council (Director of Environmental Services) – support the proposal given the significance that a continued production of fluorspar will have on the economic and social well-being of Cheshire. The continued availability of fluorspar is crucial to the Ineos plant and the Chlor Vinyls company as a whole. Understands that the release of reserves from Tearsall is critical to prevent the immediate closure of these plants. These plants are not located in Cheshire but employ nearly 400 Cheshire residents and the closure would have a significant detrimental impact on this area of north Cheshire. These chemical plants supply a large number of other users within the county & the UK and the continued supply of fluorspar makes a strong case for the proposed extension to Tearsall. These important economic and social impacts should be taken into account when balancing the need for the mineral against the environmental impact of the extension within the immediate area.

Mersey Partnership –Provision of fluorspar is critical to the long-term sustainability of Ineos Fluor which employs 500 people & Ineos Chlorvinyls which is the last remaining chlorine producing plant in the UK. Both companies are vital to the manufacturing base of the Liverpool City Region & are key drivers for the North West economy. Fully supports. (Refer Appendix 5 for details).

Derbyshire & Nottinghamshire Chamber of Commerce – the delay to enable public consultation of further site plans will have a profound impact on Glebe Mines and could have distinct implications for the local workforce. Support given the demand for the mineral and hope that it can be brought to a positive and speedy resolution.

The GMB Midland and East Coast Region - express full support for the proposal. Glebe Mines employs 67 skilled people and the operations at Cavendish Mill supports around 100 others in associated businesses. The Peak Park is the UK's only source of fluorspar. For economic and environmental reasons it is not commercially viable to source fluorspar from overseas. The proposed development would sustain the chemical companies INEOS Fluor and INEOS ChlorVinyls. Both companies are vital to the manufacturing base of the northwest region. Failure to approve would put a large number of jobs at risk. Whilst recognising the value of the national park, fluorspar extraction is long established in the area. Glebe Mines has a good track record of restoration and the Tearsall site would be restored to a high standard.

A total of **435** letters comprising 81 individual letters and 354 standard letters & a petition with 20 signatures have been received from Slinger Mining, employees & suppliers of Glebe & Ineos, MPs (refer Appendix 2 for letters) and local residents covering the issues summarised below and detailed in Appendix 5.

- the potential loss of employment;
- the lack of alternative forms of employment in the North West;
- this is the sole source of UK fluorspar;
- the fluorspar is high quality acid-grade;
- the contribution to the local and UK economy;
- the reliability factor in terms of the ability to import fluorspar from outside the UK;
- the broader global environmental issues arising from the importation of fluorspar;
- the potential for negative impact on the UK economy due to interdependency of fluorspar related industries;
- all extracted limestone will be progressively backfilled, ultimately improving biodiversity, public amenity and the appearance of the site within 6 years;
- the assurance that visual and traffic impacts can be minimised through environmental controls;
- it will make capital available for investment in underground mining which will be beneficial in the long term;
- the minimal extent of the site compared to other quarrying/processing activities in the Park.

Neutral

British Mountaineering Council – neither welcome nor formally object. Raises concerns over public rights of way, landscape, environmental impact assessment, restoration. (Refer Appendix 6 for details).

Other

A letter has been received from the solicitors for Bleaklow Industries Ltd in relation to the applicants' proposal to give up rights to work at Peak Pasture. Details are set out at Section 9 (Refer Appendix 2 for letter)

Main Policies

These include:

Regional Spatial Strategy (RSS) 8; Planning Policy Statement (PPS) 7; Minerals Policy Statement (MPS) 1; Minerals Policy Statement (MPS) 2; Mineral Planning Guidance note (MPG) 5.

Relevant Structure Plan policies include: GS1; C2; C5; C8; C10; C11; C13; C14; C15; C16; M2; M3; M5; T1; T10; E1.

Relevant Local Plan policies include: LC15; LC16; LC17; LC18; LC19; LC20; LC21; LC22; LC23; LC26; LM1; LM2; LW2; LW3, LT20.

Comment

1. Geology & Geotechnical

- 1.1 The site is proposed to be worked in 5 phases with each phase extending westwards from the existing quarry. Phase 1 starts on the upper slopes and subsequent phases move progressively northwards down slope. Approx 975,000 cu m of limestone are proposed to be extracted in order to access the fluorspar ore. All limestone is to be accommodated on site to be used for restoration.
- 1.2 The working method is complex. In releasing a certain amount of fluorspar per annum to supply Cavendish Mill, there has to be the space within each phase for access and storage/backfill of the limestone arising without compromising the integrity and stability of the inert waste materials within the existing quarry or repercussions of waste cross-contamination. It is now proposed that all movement of landfill materials will be completed by 16 July 2009.
- 1.3 In 1999 a previous application for fluorspar extraction within these same fields was submitted and which proposed the removal of limestone and the importation of waste. The Authority sought independent advice at the time from GWP (a national mining geology and geotechnical consultancy) in relation to geological and geotechnical matters. This concluded that there was not adequate exploration to prove the mineralisation and very significant geotechnical issues existed. Potential areas of risk include the undercutting at the southern face of unstable clay wayboards and failure of the Upper Matlock Lava slopes affecting the western and northern sides of the quarry and public rights of way.
- 1.4 Prior to submission, the applicant reviewed this previous report and considered that the geotechnical issues had been addressed in the design of the scheme. The Authority's previous consultant was asked to verify this account and also to assess the quality and quantity of fluorspar ore. This is in order to consider implications for the method of working, the identification of impacts, and to ensure that surplus limestone generated as a consequence of a shortfall of fluorspar could still be retained on site to achieve the proposed final landform. Constraints on working due to safety issues may also affect recoverable tonnages.
- 1.5 The Authority's consultant's report of July 2008 concluded:
 - We do not consider that the stability of the proposals has been demonstrated. On information available to us there is a significant risk of instability of the southern wall (with public bridleway) and of the backfill.
 - in tipping volume shown in the designs.

- There are concerns regarding the quantity of fluorspar available, which may have been overstated by ignoring some barren areas. The pit design also appears to leave some workable fluorspar in the floor. This appears to be a waste of resources.
 - The designs as presented appear not to be able to accommodate all the waste that will be produced. Extra tipping areas will be needed.
 - The method of access into the workings has not been shown. The pit phases as designed cannot be safely accessed by wheeled vehicles. This will exacerbate the shortfall
- 1.6 A meeting was held with the applicant to discuss these conclusions. In response to this the applicant submitted a supplementary report on geotechnical issues and revised phase and restoration plans. The Authority's consultant has reviewed these to see whether they address the concerns raised.
- 1.7 The Authority's consultant further concluded on 1 August 2008:
"We are still concerned about the stability of the excavations. The applicants have not analysed the actual geometry of the critical sections and, in our view, have overestimated the stability. We also remain unconvinced of the quantity of fluorspar present and of the necessity of excavating the full area shown."
- 1.8 Since then there have been further submissions providing information on geotechnical issues, reserves & tonnages & revisions to plans and method of working & further reviews by the Authority's consultant.
- 1.9 The Authority's consultant further concluded on 7 November 2008, having regard to the latest information provided, including the total excavation model:
- There is only 500,000 t of ore (121,000t of pure fluorspar) within the proposed excavation. This is significantly lower than the figures given by the applicant of 650,000t of ore (153,000t of pure fluorspar).
 - There will be some 100,000t of ore (29,000t pure fluorspar) left below the floor of the proposed pit. This would require a 20m deeper pit for recovery.
 - In the absence of any geotechnical sampling and shear strength testing, the proposed rock anchors will have to be installed to ensure stability.
 - Backfill along the southern side of the site should be compacted to ensure long term stability.
- (Note: the matters relating to subsequent re-excavation of landfill & shortfall of tipping space have been resolved by the latest (seventh) set of amended/additional information.)
- 1.10 These remaining outstanding matters & the latest revised method of working were further considered in the Authority's consultant's report of 26 November 2008:
- The best estimate of the quantity of fluorspar ore within the excavation that the applicants have applied for is some 77% of the figures they quote.
 - Geotechnical testing and the use of rock anchors to stabilise the southern face should be adequate subject to agreement of details before excavation proceeds.
 - The method of working of the initial phases cannot be as shown on the drawings.
- 1.11 The Authority's consultant goes on to address the consequences of a shortfall in the amount of fluorspar potentially available. If the production rate needs to be maintained, then excavation and backfilling will need to proceed at a faster rate than proposed, with completion of extraction taking place in about 4.5 years rather than 6. Although the period of disturbance will be reduced, more rapid excavation will result in more environmental disturbance in terms of noise & dust. There would also be the requirement to find further reserves.

- 1.12 At this time the plans still did not demonstrate that the site could be safely worked and restored as proposed. There was the potential for users of the public rights of way to be at risk were the development to be approved and undertaken as identified on these plans. It was considered that even if a condition were to require geotechnical testing & the use of rock anchors in advance of excavation this may create an unacceptable variance with the working scheme identified on the plans and the consequent ongoing effects of method of working. MPG5 provides guidance on stability in surface mineral workings and tips and Local Plan policy LM1 requires that attention be paid to damage in the form of subsidence or landslips and the effects of land stability on surface development.
- 1.13 Structure Plan policy C16 states that development will not be permitted on unstable or contaminated land unless the proposal includes all measures necessary to stabilise the land and remove or treat contamination. The plans still needed to demonstrate in the initial phase that the inert landfill materials would be adequately stabilised to ensure that the measures to prevent run-off and cross-contamination would be successful so as not to pollute or contaminate adjacent land including the extension area which forms a major aquifer.
- 1.14 Consequently, the required revision to the proposed method of working could affect the quantities of limestone arising in this initial phase for backfill and/or temporary storage. Uncertainty over quantities, impacts arising, and duration create difficulties in conditioning and effectively controlling the proposals. If the method of working were to be subsequently modified for stability reasons, to mitigate impacts from landfill, or from reassessment of the reserve then the development could end up being materially different from that applied for. It may prove difficult to enforce against materially different development if the site could not be worked in accordance with the approved plans which were based on insufficient geological and geotechnical assessment.
- 1.15 In response to these concerns, the applicant has reverted back to an earlier method of working. The full extent of Phase 1 is now proposed to be worked in a westerly direction in a series of 4 vertical lifts rather than working in narrow 20 metre wide dip-cuts. A geotechnical assessment was also proposed following the initial phase of excavations in Phase 1. All other working details remain the same.
- 1.16 The Authority's consultant concluded on 8 December 2008:
- "By reducing the average grade sent to Cavendish Mill, the total quantity of fluorspar ore could be extracted from the site. This however, must give rise to a shortfall in actual fluorspar produced by the mill from this feedstock, as the same quantity of lower grade ore must give rise to lesser quantities of fluorspar. Also, if the deficit only becomes apparent in the later phases 4 and 5, it will not be possible to revisit the earlier phases to extract more low grade ore from them. Thus, to obtain the required tonnage, the grade of the ore in the latter stages may need to drop very low indeed. Conversely, if the early phases comprise low grade ore, high grade ore may be left at the end in order not to exceed the permitted tonnage.
- 1.17 There appears to have been a backtracking in the stability assessment. We understood from the previous communications that Geotechnical investigation would take place before work commenced. It now appears this will only happen after or during excavation of phase 1. It is our understanding of the Quarries Regulations that the stability of the workings has to be demonstrated before working commences. By the time the weakness of the clay wayboard becomes apparent it may be too late to install remedial works. Presumably, a condition could be imposed requiring the requisite geotechnical investigation before work commences.

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- 1.18 It now appears from the text that the drawings do not show the actual proposed access arrangements or routes. From the descriptions, it appears that by a lot of re-handling, the scheme may work. However, the layout of the backfill will probably differ considerably from what is shown on the drawings.”
- 1.19 To overcome these concerns the applicant has confirmed that measures to stabilise the southern face will be identified subject to the approval of the Authority as a result of a geotechnical assessment which will be undertaken prior to the commencement of operations. Access for the implementation of any rock anchor scheme will be by the upper haul road and stabilisation works will be carried out as part of the initial site works.
- 1.20 The application calculates the tonnage of fluorspar using a grade of 23.33%. An application approved in 2000 at the existing quarry restricted the limestone constituent of the ore exported from the site by applying a minimum of 20% fluorspar/barytes content averaged each week (known as a ‘cut off grade’) and monitored by weekly written assay analyses from the fluorspar processor specifying tonnages per grade. This proved to be controllable by way of condition and legal agreement.
- 1.21 The specification of cut-off grades in conditions is considered appropriate because verification of the amount of vein mineral and limestone extracted in each phase would otherwise only be possible once each phase has been worked out and by the use of annual production limits. Whilst it is assumed that some low-grade material within a mineralised sequence would be extracted during mining, the concern is that if too much low-grade mineral is removed there will be a shortfall in retained limestone for backfill materials and the restoration will be compromised.
- 1.22 The supplementary geotechnical report provided by the applicant proposes a cut-off grade of 15% averaged over a 3 month period for Phase 1 & 2 and averaged over one month for the other phases. This is because the applicants have identified that the fluorspar within Phase 1 & 2 is low-grade, ore is at a critically low level and low-grade ore is preferable to no ore. In order to deal with the retrospective nature of the condition, returns could be submitted monthly to allow for monitoring. The applicant has provided clarification on how a shortfall of the quantity of fluorspar available at the site, as suggested by the Authority’s consultant, would be dealt with and the effect on the duration of the proposal. The applicant has also considered the average and maximum vehicle movements to clarify that the proposal could be worked in accordance with the details submitted. It is considered that in the absence of additional exploration to verify the reserve assessment, additional control could be in the form of conditions covering six-monthly site surveys, volumetric assessments linked to phasing timescales, and output and vehicle numbers restrictions.
- 1.23 The applicant needs to be clear about their working method for this site to provide any confidence over the impacts of working, whether the proposed amended restoration is achievable at this site and to confirm the significance of Tearsall as a viable reserve to maintain production at Cavendish Mill. The applicant considers that the amendments made to the phase 1 working methods will not result in additional impacts and no change in the magnitude and significance of those impacts in terms of visual impacts; no net changes to the scale of noise and air quality impacts previously impacted; no changes to the magnitude and significance of impacts to ecology and archaeology. Further clarification of impacts has now been submitted.
- 1.24 It is now considered that the technical matters have been resolved in a manner which allows the imposition of conditions to cover the stability concerns identified and to control the method of working in accordance with the phasing plans provided and the accompanying information. There remains a difference between the applicant and the Authority’s consultant in the amount of fluorspar potentially available at the site.

However, the applicant considers Tearsall to be viable and conditions can be imposed to control the amount of fluorspar extracted and to allow for regular review. As such the development is in accordance with Structure Plan Policy C15 and Local Plan Policies LM1 and LM2.

2. Scale/Need/Alternatives

Policy

- 2.1 Structure Plan policies GS1, M2, M3 and M5 establish the context for considering scale, need and alternatives. Policy GS1 of the approved Structure Plan (1994) establishes that development will be controlled to conserve and enhance the valued characteristics of the National Park. Structure Plan policies M2 and M3 confirm that all proposals will be subject to the most rigorous examination and will be strictly controlled. Proposals will not be approved unless they are in the public interest and no reasonable alternative site or means of production is available. Major development will not be permitted 'other than in exceptional circumstances' where it is essential to meet a 'national need' which overrides the national policy to protect the designated interest of the National Park.
- 2.2 Structure Plan Policies M3 and M5 provide the context for considering the need for the proposed development. Small-scale operations can be compatible with policy providing that adverse impacts are minimised in line with Local Plan policy LM1. Even if the adverse impacts can be minimised this does not automatically mean that the development is acceptable given the need to conserve and enhance the National Park.
- 2.3 Consideration of whether a proposal is major development or a small-scale operation is usually assessed on a number of factors including the area covered by the proposed development, output, duration, planning history and environmental impact. Having regard to these matters the application is considered to be major development and is accompanied by an Environmental Statement.
- 2.4 The Peak District is now the principal source of domestic fluorspar. The only current operational fluorspar processing plant in the UK is located in the Peak District at Cavendish Mill near Stoney Middleton and is operated by Glebe Mines Ltd. In 2007 Ineos Fluor acquired Glebe Mines to integrate the supply of fluorspar into the downstream manufacturing industry at Runcorn. The fluorspar extracted from the Peak District is processed into Acid Grade Fluorspar (Acidspar) at Cavendish Mill to produce Hydrofluoric Acid (HF) at Runcorn for incorporation into the fluoro-chemical process and usage in pharmaceuticals, refrigerants, petroleum, agrochemicals, high performance coatings.
- 2.5 The Authority has accepted in the past that there was a need for fluorspar in terms of national considerations of mineral supply. This view has been based on Ministerial decisions concerning vein mineral extraction issued in the 1950s and subsequent appeal decisions. At the time of the 1976 Blakedon Hollow tailings lagoon appeal, linked also to the continuation of vein mineral extraction operations at Longstone Edge, the Secretary of State for the Environment concluded that the continued production of fluorspar from Cavendish Mill was important to the national economy and was 'vital in the public interest'. This decision effectively reaffirmed the Government's view that there was a national need for fluorspar that overrode the National Park designation. Until August 2000 no subsequent decisions or Government guidance challenged this approach.
- 2.6 Following the public inquiry held in May 1999 into the appeal against the Authority's decision to refuse planning permission for vein mineral extraction/exploration at Cop Mine, Bradwell, the Secretary of State concluded, in August 2000, that the significance of the appeal proposal as a possible strategic reserve of a mineral, for which there is a

national need, should not be overridden by the local environmental constraints. Also at this time, Laporte Minerals took the decision in July 1999 to close its fluorspar production operations at Cavendish Mill following the loss of a major customer who had decided to source fluorspar from China. Operations subsequently resumed at Cavendish Mill in October 1999 under the control of Glebe Mines Ltd.

- 2.7 In February 2001 the Authority commissioned a report to assess the national need for fluorspar, which was published in April 2001. The report concludes that, whilst there is a demand for fluorspar, this does not amount to a national need and adequate alternative supplies of fluorspar, which is an internationally traded commodity, are available at competitive cost and quality from various overseas sources including China, South Africa and Mexico. This was reported to the Authority's Planning Control Committee in July 2001, at which Members deferred consideration pending further consultation. At the November 2001 meeting, Members resolved to adopt the report as a material consideration in relation to future fluorspar proposals.
- 2.8 Following a public inquiry in 2005 into the refusal of permission for an extension also at Tearsall Quarry, the Secretary of State considered the appeal in terms of maintaining the overall supply of acid grade fluorspar rather than the need for fluorspar as 'need' for the mineral is currently undefined in minerals policy and the issue is not covered in current national minerals planning guidance. He concluded that the fluorspar may have some significance as an exploitable resource but was not satisfied that the scheme was important in terms of the public interest or to maintain a supply of fluorspar. He considered that there were available supplies for some years ahead and no immediate requirement for additional permitted reserves to maintain supply had been demonstrated. Even if the appeal proposals yielded the expected amount of fluorspar it would not be critical to the viability of Cavendish Mill and it would make a very small contribution to the Mill's total requirement for raw material. He did not conclude whether the demand for fluorspar overrides the need to protect the National Park or whether a supply of fluorspar should be maintained from the National Park.
- 2.9 There is still no government guidance or policy relating specifically to vein minerals despite national recognition of the issues and pressure from the industry and the Authority. Mineral Policy Statement (MPS) 1: Planning and Minerals published in November 2006 includes annexes dealing with specific minerals of national importance but does not encompass fluorspar in these annexes. Regional Spatial Strategy (RSS) 8 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 but it does not include policies for fluorspar.
- 2.10 Planning Policy Statement (PPS) 7: Sustainable Development in Rural Areas advises that major developments should not take place in National Parks except in exceptional circumstances and that this includes proposals that raise issues of national significance. Because of the serious impacts that major developments may have on these areas of natural beauty and taking account of the recreational opportunities that they provide, all such developments should be subject to rigorous examination and should be in the public interest. This will include an assessment of:
- the need for the development, including in terms of national considerations of mineral supply and the impact of permitting it, or refusing it, upon the local economy;
 - the cost of, and scope for making available an alternative supply from outside the designated area, or meeting the need for it in some other way;
 - any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.
- 2.11 This is reiterated in MPS1 specifically with reference to minerals development.

Industry & BGS Reports

- 2.12 In 2007 Ineos commissioned a study on 'The Strategic requirement for fluorspar mining in the UK'. In July 2008, the British Geological Survey produced a report entitled "The need for indigenous fluorspar production in England". This publication states that it is not a statement of planning policy or guidance; nor does it imply Government approval. These incorporated some of the work undertaken in the Bones Wells impact study on Glebe Mines (2004). These reports set out information relating to the extraction and consumption of fluorspar and describe the uses of fluorspar and its importance to the English economy and downstream industries which it supports.
- 2.13 All english acid-grade fluorspar is used in the manufacture of Hydrofluoric Acid (HF). Demand for fluorspar in England is principally driven by demand for HF and associated fluoro-chemical production. Ineos is the main consumer of fluorspar in England. The UK's only other manufacturer of HF, Rhodia, closed its HF manufacturing plant in 2004 and announced in 2007 closure of its fluoro-chemical operation as it was no longer economically viable. Ineos use for the most part only fluorspar produced in England. The annual requirement of fluorspar ore is between 420-450,000 tonnes to produce 55-60,000 tonnes of acid-grade fluorspar. Ineos state that they cannot import all their fluorspar requirements at a price and in sufficient quantities for the business to be economically viable.
- 2.14 Fluorspar extraction contributes to the english economy with an estimated gross value added of over £4.5 million. This consists of both the direct contribution of the industry and indirect benefits derived from the purchasing of goods from suppliers and employees demanding goods and services from other parts of the economy. The downstream fluoro-chemical sector is estimated to contribute more than £35 million. In the event of Cavendish Mill closing it is unlikely that operations would resume and a decision to terminate HF manufacture would have knock-on effects for the Ineos Group because of the highly integrated nature of operations at Runcorn as well as downstream manufacturing processes.
- 2.15 Modernisation measures are already being undertaken at Cavendish Mill and the company has made a commitment to achieve a specified level of underground production. It is not proposed that the grant of permission at Tearsall will directly result in improvements but it would provide some expectation of continuity of ore supply and so reduce the risk for future investment in larger capital projects.

Alternatives

- 2.16 The Authority's statutory duty is to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and to promote its understanding and enjoyment and in pursuing these purposes to seek to have regard to the economic and social well-being of its local communities. The Authority accepts that there is a demand by the UK industry for fluorspar and that working indigenous material has a beneficial effect on the balance of payments and on the local economy. This has to be balanced against the overriding requirement to protect the special characteristics of the nationally designated area of the Peak National Park which has a significant environmental value as well as a beneficial effect on the national and local economy through tourism and other spending and employment.
- 2.17 Each proposal is judged on a case by case basis and determined in accordance with policy and any other material considerations. Consideration of planning applications for fluorspar extraction in the National Park requires an assessment of permitted reserves and the availability of reasonable alternatives in terms of mineral supply. Resources are

defined as containing a concentration of mineral that is potentially workable. That part of a mineral resource which has been fully evaluated and is commercially viable to work is called a mineral reserve. Permitted reserves have the benefit of planning permission for extracting the mineral.

- 2.18 In 2004 the British Geological Survey (BGS) produced a factsheet as part of the work on industrial minerals to inform the review of MPG1. The BGS considered in 2004 that there is some 3.5 million tonnes of permitted reserve of fluorspar ore within the main producers control at the current time. This equated to a 'landbank' of up to 10 years based on the 350,000 tonnes annual requirement of raw ore at Cavendish Mill.
- 2.19 By the Tearsall Inquiry in 2005, Glebe Mines were stating that there is an estimated 2 million tonnes of current mineral reserves. At a throughput of 450,000 tonnes per annum that equated to 4.5 years supply. The total mineral resource of 3.6 million tonnes was identified.
- 2.20 The BGS report in 2008 states that by the end of 2005 permitted reserves within the main producer's control was about 1.8 million tonnes. It states that these reserves have since been depleted to around 630,000 tonnes by December 2007, equivalent to some 1.5 years supply for the operation at Cavendish Mill at a rate of ore usage of 420,000 tonnes per annum.
- 2.21 These figures are difficult to reconcile. There is a need to take into account all other permitted reserves not operated by Glebe Mines and all those which Glebe consider are not currently economically viable for extraction. The underground reserves at Milldam and Watersaw are important permitted reserves. They comprise 3 million tonnes. Other vein mineral sites within the Park are excluded from the figures – Smalldale, and the eastern end of Longstone Edge, including Backdale. There are outstanding planning issues at these sites. Vein minerals are also obtained from some limestone quarry workings in the National Park, for instance at Hope Quarry and Darlton Quarry, although Darlton Quarry has temporarily ceased working and there is no current output of fluorspar from Hope. There are no planning constraints on permitted rates of vein mineral extraction at these sites. Fluorspar is also obtained from reprocessing tailings (the waste material from previous workings). There are also sites outside the National Park in Derbyshire including Slinter Top, Ball Eye and in North Yorkshire at Pateley Bridge. The application reassesses these reserves. There are also permissions in County Durham.
- 2.22 According to the BGS Factsheet 2005, world reserves of 100% equivalent fluorspar are estimated at 230 million tonnes (equating to ore reserves of 374 million tonnes). World resources are estimated at 500 million tonnes.

Table 4.1.1 World identified reserves of fluorspar, 2003

	Million tonnes contained fluorspar	Percentage of total world reserves
South Africa	41	15.4
Mexico	32	12.0
Russia	32	12.0
China	23	8.6
France	10	3.7
Mongolia	10	3.7
Italy	6	2.2
Spain	6	2.2
Namibia	3	1.1
Kenya	2	0.7
Morocco & Tunisia	2	0.7
Other Countries	100	37.5

Source: United States Geological Survey

- 2.23 In the application Glebe Mines referred to a shortfall of between 60,000 – 100,000 tonnes following the premature closure of the Winster site. Since submission of the application a more critical supply situation has been indicated by Glebe/Ineos. They state that current accessible mineral reserves only enable the company to operate economically until the end of 2008. They state that production from the Watersaw Mine ceased in July 2008 due to depletion of reserves at the east end of the mine and a requirement to place tailings into the Arthurton West open pit, and that development of the mineral to the west of the mine will require significant capital. They state that ore supplies available to Cavendish Mill are Arthurton West Extension, Bow Rake/High Rake, Tailings Dam sands and small volumes of tributer supplies. Arthurton West Extension and Bow Rake/High Rake will have come to an end by the end of 2008 due to planning restrictions or they will have been worked out. The mineral available underground at Milldam and Watersaw west will take greater than 12 months to access and in the case of the main ore body at Milldam about 18 to 24 months to access.
- 2.24 Glebe conclude that without Tearsall, 2009 will see a shortfall in ore supplies which cannot be made up in any other way. Ineos' Runcorn site requires 45,000 tonnes of acid grade fluorspar to meet its production requirements. Without Tearsall in 2009 they are forecasting a shortfall of approximately 20,000 tonnes.
- 2.25 It was initially envisaged that output from the site would provide Cavendish Mill with around 25% of its crude ore requirement. Due to an early finish at Winster and the necessity to accelerate ore production from Longstone Edge, Glebe consider that the situation is now more acute and Tearsall is now forecast to provide Cavendish Mill with between 40 and 50% of its crude ore requirements or 30-40% of its acid grade output. Without Tearsall in the short term there is likely to be a delay in full investment in the underground mines due to the planning uncertainties created.
- 2.26 Glebe have stated that ore supply from Tearsall does not solve Glebe's immediate ore deficit but it is essential in bridging the gap until production can be established from the underground mines. They state that long term capital cannot be committed in the underground mines until it can be demonstrated that there will be surface ore with which to blend. The large resources of vein mineral ore associated with the underground mines represent a long term sustainable future for the business when combined with other surface ores. The company has now undertaken to achieve a legal minimum of 15% crude ore contribution from underground by 2011.

Forecast Summary breakdown

	2009		2010		2011		2012	
Site	%CO	%AG	%CO	%AG	%CO	%AG	%CO	%AG
Tearsall	27%	23%	51%	40%	42%	33%	44%	33%
Milldam	15%	26%	26%	41%	25%	40%	29%	45%
Others	58%	51%	23%	19%	33%	27%	27%	22%

%CO - estimated percentage of total crude ore presented to Cavendish Mill

%AG - estimated percentage contribution of total Acid Grade produced by Cavendish Mill

- 2.27 Glebe are relying on Tearsall providing a significant proportion of their ore requirement over a period of 6 years yet the Authority's consultant has indicated that he can only conclude the presence of approximately three quarters of that amount based on the exploratory information provided and the assumption that the deposit is as indicated. This could result in a lesser contribution than anticipated to the Mill's total requirement and may not therefore provide certainty of supply in relation to the required amount for the duration specified. The applicant has already indicated that they need to maintain a proportion of the feed to the Mill from surface workings and it should be noted that there will remain this future requirement particularly in the event of a resulting shortfall.

- 2.28 Fluorspar is important to the British chemical industry and it is understood that the industry desires fluorspar to be won from an indigenous source in terms of price and to give certainty of supply and quality, and reduce transport. It may be possible for supply to continue at a level which assists in meeting the demand providing alternative sources of supply are rigorously assessed and used in preference to supply from the National Park and the cumulative environmental impacts of working within the National Park are more comprehensively mitigated, such as by underground working.
- 2.29 There appears to be a market demand for the product to be won from the Peak District. As to whether there is a need which ought in the national interest to be met, the research and information available is not conclusive. DBERR considers that “an indigenous supply of fluorspar for the UK chemical industry is vital to maintain the competitiveness in a sector that is highly exposed to international trade”. The Government has not, however, expressed a view as to whether in planning terms there is a national need for fluorspar extraction which meets the tests in MPS1 and PPS7 of exceptional circumstances and uncertainty still remains over whether there is a national need for fluorspar to be won from the National Park.
- 2.30 There is thus no collective view on national need and DBERR’s view has not been reflected in planning policy. Since the 2001 Authority commissioned report and the 2005 appeal decision (on behalf of the Secretary of State), no research has been published by the government that suggests a different approach. The BGS report of 2008 specifically states that it is not the Government’s view.
- 2.31 For certain mineral resources, national government has determined a clearly defined national need. The Department of Communities & Local Government (DCLG) has not undertaken this for fluorspar. This may well mean that the Government has not identified a national need for fluorspar in planning terms. The case that the need for fluorspar is an exceptional circumstance has also never been advanced in any mineral policy statements or guidance from DCLG. The Authority must decide what weight to give to the DBERR view and whether it considers that a national need for fluorspar has been established. The Authority must balance for itself the benefits of fluorspar extraction against the statutory obligations to conserve and enhance the National Park, which the Environment Act 1995 seek to protect.
- 2.32 The Authority can only consider the fluorspar supply situation and the availability of alternatives in terms of the reserves with planning permission. Glebe state that some of these reserves are uneconomic and are merely potential resources, yet, they have not submitted rigorous analysis to determine why these permitted reserves are no longer viable. In terms of the supply, the Authority’s view is that, technically, the need for further fluorspar extraction is not proven. As explained earlier, alternatives do exist, although the applicant’s view is that these are not viable. The proposed development is contrary to Structure Plan policies GS1 and M2 and Local Plan policies LM1 and LM2 on the basis that alternatives exist.

3. Landscape, Visual Impact & Restoration

- 3.1 Tearsall Quarry is in a prominent position in a designated landscape of national and international importance opposite the populated area of Darley Hillside through to Matlock. The topography of the area means that the site is visible from a wide area including Stanton Moor, the eastern side of the Derwent Valley and areas east of Matlock. It is also visible from public rights of way in the locality. The proposal is to resume operations and extend the quarry over a duration of 7 years and then restore.

- 3.2 The Authority's Landscape Officer has concerns that the proposed extension would have a significant visual and landscape character impact.
- 3.3 Whilst the application would bring about the final restoration of the existing quarry this would not be completed until 7 years time. If the development is refused, the restoration of the existing quarry can be brought about by using enforcement powers on the landowner and those with an interest in the land to specify an alternative scheme.
- 3.4 The impact would be mitigated to a certain extent by the landform and the proposed progressive phased restoration. The proposed screen mound will screen the works from users of the public rights of way but it will be dominant in their views of the landscape and will have minimal effect for long distance viewpoints. Proposed mitigation measures are not sufficient to overcome the impacts of the quarry.
- 3.5 It is considered that the development would not respect, would adversely affect, and would lead to undesirable changes in the landscape and other valued characteristics of the designated area of the National Park. In addition, the proposal; would affect the amenity of the area in terms of both residential population and users of the rights of way network. As such, the proposal is contrary to Structure Plan policies GS1 and C2 and Local Plan policy LM1.

4. Archaeology

- 4.1 The site is situated within a cultural landscape of particular value in the Peak District, namely the lead mining landscape of the Derbyshire orefield. The multi-faceted value of this landscape has been identified by the Authority, English Nature and English Heritage through the work of the Lead Rakes Project. The area of Winster/Wensley, within which the proposed development is located, has been identified as a Regionally/Nationally Important Lead Mining Landscape where mining features are sufficiently well preserved to make a significant contribution to the visual character of the Peak District landscape.
- 4.2 Mine shafts are found in the proposed extraction area and an area of lead mining remains, which includes shafts and waste hillocks, runs along the south-eastern edge of the site. It is considered that underground workings in the Tearsall area are of national and possibly international importance.
- 4.3 The site lies to the west of the Northern Dale lead mines site, which is scheduled as a monument of national archaeological importance. The boundary is in the process of being revised to cover the extensive lead mining remains next to the north eastern boundary of the existing quarry along which it is now proposed that the perimeter access road will run.
- 4.4 Following the submission of further information, the Authority's archaeologist is satisfied that the impact on surface and underground archaeological features affected by development can be adequately mitigated for by preservation by record and adequately controlled by conditions.

5. Ecology

- 5.1 Within the extension area, ecological surveys have recognised the interest of the lead mining heaps and surrounding grassland and the presence of a nationally scarce species is recorded. Great crested newts, a protected species, are also found to be present. Bat, bird, reptile and invertebrate surveys have also been undertaken. Part of the Masson Hill SSSI, notified for its geological interest, lies immediately adjacent to the existing site and a RIGS is recorded at the site. The 'Toothbrush to the south of the site is covered by a TPO.

- 5.2 Proposals for mitigation include ongoing surveys, timings for vegetation clearance, spoil mound and turf translocation, creation of ponds and the retention of quarry face in the restoration proposals which will make a contribution towards biodiversity and maintenance of the geo-diversity at the site. However, the placement of materials against the northern face in the existing quarry as now proposed will result in a transitional impact at best. The newts would be trans-located under a licence to be obtained from Natural England prior to works commencing and there would be a requirement to ensure no subsequent disturbance. Longer term management beyond the 5 year aftercare period has now been offered.
- 5.3 Natural England and the Authority's Ecologist are satisfied that the submitted information allows adequate assessment & mitigation of the impacts arising. However clarification has been sought on a number of outstanding matters which it is now considered can be addressed by conditions. An extended period of aftercare which would be beneficial for areas of biodiversity interest has not been offered as an amended proposed planning obligation.

6. Environmental Issues – Noise/Blasting/Dust

- 6.1 The potential sources of noise and dust are soil stripping; drilling of stone; blasting; extraction, processing and tipping including on-site plant and machinery movements; and lorry movements on and off-site. Surface operations will include access for soil and overburden removal and drilling in preparation for blasting. Impacts arising are assessed by reference to the method and phasing of working and restoration and access requirements.
- 6.2 Tearsall Quarry has a history of complaints regarding matters of noise and dust emissions which would suggest that the impacts of activities associated with quarrying in this area of the National Park are perceived to be important locally. Operational noise was also raised at the applicant's community engagement process. The noise and dust surveys provided in the Environmental Statement identify Tearsall Farm and Brightgate as the nearest noise sensitive properties. The residents from Wensley have undertaken & submitted their own surveys.
- 6.3 There has been no extraction at Tearsall Quarry since 2003 and waste importation ceased in 2005. The proposal to resume operations and extend the quarry closer to Wensley over a duration of 7 years would create further noise and dust in this quiet rural area. Technical matters relating to the working method have now been resolved and clarification provided on the associated noise and dust impacts arising. Having regard to the response from the Environmental Health Officer it is considered that blasting, noise and dust can be controlled by the imposition of suitable conditions in accordance with national planning guidance and Local Plan policy LM1.

7. Traffic & Recreation

- 7.1 Lorries would use Bonsall Lane, connecting to the B5056 about 2.5 km to the west. Lorries have to turn right upon leaving the site as a 7.5 tonne weight restriction order applies to the continuation of Bonsall Lane to the east of the site. The highway is poorly aligned and limited in width. Passing places have developed informally over time where lorries have overridden the verges. There is considerable potential for conflict to arise between different users of this highway. It is not desirable to allow development that could make existing problems worse or create unacceptable new ones unless it is in the overall public interest to do so.

- 7.2 The intensity of lorry movements along Bonsall Lane associated with operations at the quarry had been a continuing problem with damage to the carriageway and verges and regular complaints over non-compliance with vehicle numbers being received by the Authority. In 2001 the previous operator carried out reinstatement works to the highway edges which was monitored by the Highways Authority over a 3 month period. In view of the period of time the operations will be carried out, associated wear & tear is likely and the Highways Authority has requested monitoring and the annual provision of a sum for maintenance.
- 7.3 Since 2005 when waste importation finally ceased at Tearsall, there have been only very limited HGV movements along Bonsall Lane. The Traffic Impact Assessment and the Environmental Statement originally made reference to the proposed development replacing and reducing by 20 HGV movements after one year the existing 70 per day HGV movements along Bonsall Lane to restore Tearsall. This is not the case and vehicle movements of that magnitude have not been authorised since 2003. The assessment of the remainder of the haulage route to Cavendish Mill is also on the basis that it will directly replace those generated by the Winster Moor site. The supporting statement provided in September 2008 rectified this and proposed an annual payment for verge/passing place maintenance.
- 7.4 A resumption in 50 HGV movements a day (25 in 25 out) along Bonsall Lane for a period of 6 years would represent a significant change in the type of traffic using this road. Local Plan policy LM1 specifies that mineral development will not be permitted where, amongst other things, it would cause nuisance and general disturbance to the amenity of the area (including that caused by transport and the method and duration of working). The proposals are considered to be contrary to Local Plan policy LM1.
- 7.5 Bonsall Moor is an area heavily used for recreational purposes and there is a network of public rights of way in the locality, including a diverted bridleway that skirts the southern and western boundary of the quarry. The Limestone Way crosses Bonsall Lane about 370m to the west of the site entrance. This readily accessible area is a major recreational resource that is greatly valued by the public. The interest is enhanced by the presence of historical lead mining remains. It is important that the interests and amenities of users of public rights of way in the National Park are not adversely affected.
- 7.6 At the 2005 Tearsall Inquiry, the Secretary of State considered that there would be an adverse effect on recreational users of the Limestone Way and Bonsall Lane due to the sight and sound of heavy goods vehicles in this area and that some residential properties along the route would also be affected by disturbance and inconvenience.
- 7.7 The Bones Wells Report provided in support of this application shows that 43% of respondents to a survey (approx 135 in number) had noticed a Glebe Mines operation while on their visit and as many as 47% of these (60 in number) said that it had spoiled their enjoyment of the National Park.
- 7.8 The footpath and bridleway are proposed to be diverted along the northern, western and southern edges of the application area. It is considered that, due to the stability measures now proposed, the safety of users of the rights of way would not now be prejudiced. Soils in bunds 2.5 metres high are also proposed to be stored close to the diverted bridleway. This will result in inconvenience and a potential loss of enjoyment. Whilst it is proposed to create an additional right of way through the site following restoration, there will remain a missing section linking with the footpath to the north. The applicant has confirmed that they will liaise directly with the Bonsall Bridleways Group over blasting.

- 7.9 Structure Plan Policy C15 sets out that development will not normally be permitted where it would 'adversely affect land, air or water quality or other valued characteristics of the area, or quiet enjoyment of the area by local residents and visitors'. Policy T10 of the Structure Plan states that development will not normally be permitted where it would adversely affect pedestrian interests.
- 7.10 In conclusion, it is considered that there will be a detrimental effect on the amenities and environment of the National Park from the lorry traffic associated with the development.

8. Employment

- 8.1 Whilst employment is valued in the rural area, development that creates employment is not normally permitted outside the confines of the towns and villages in accordance with Structure Plan policy E1. In this application there are knock-on effects in that fluorspar taken from Tearsall is important in maintaining jobs at Cavendish Mill at Stoney Middleton within the National Park and downstream manufacturing industries in Cheshire.
- 8.2 There will be no new jobs created at Tearsall but at least 3 would be safeguarded as they would move from other operations due to come to a close. 4 indirect but dedicated jobs associated with haulage would be generated. The medium term investment in the underground mines which Tearsall will help to secure would create 15-20 new skilled jobs in and around the mines and potentially more in the longer term.
- 8.3 Glebe Mines currently employs 65 people with 2 more due to start. Of these, 42 reside within the boundaries of the National Park representing 65% of their workforce (The Bones Wells Report defines the National Park as including nearby settlements of Buxton, Matlock & Chapel en le Frith). It is estimated that there are a similar number of indirect jobs that are virtually dedicated to Glebe Mines through sub-contractors such as Betney Cop Restoration, Slinger Mining & Cavendish Engineering.
- 8.4 Glebe Mines state that in the event of a shutdown, the timescale for which has not been discussed in detail, the aforementioned jobs will be affected as well as 231 direct jobs at Ineos Fluor, 460 direct jobs at Ineos Chlor and a similar number of indirect jobs in the North West.
- 8.5 While jobs in the National Park are welcome, the need for employment does not justify mineral extraction in the National Park, as confirmed at the Examination in Public into the Structure Plan in 1994 and subsequently reiterated in the Local Plan.

9. Planning Gain

- 9.1 A number of matters proposed could not be secured by conditions and would instead have to be secured by a legal agreement under Section 106 of the Town and Country Planning Act 1990. Government Guidance is an important consideration in determining planning applications. Circular 05/2005 provides the current government guidance regarding planning obligations and includes a series of policy tests which should all be met before matters are included in planning obligations. The tests under circular 05/2005 are cumulative and 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 relate in scale and kind to the proposed development;
 - reasonable in all other respects.

- 9.2 There must be good reason to depart from planning policy. However, 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 and the Courts have found that obligations which go beyond the policy tests but nevertheless meet the statutory requirements of the 1990 Act are still valid and material. Although government policy is a material consideration the House of Lords in the case of *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 2 All E. R. 636 stated that a local planning authority is not legally bound to apply the government's tests in considering whether a planning obligation should be required or accepted. The court stated: "An offered planning obligation which has nothing to do with the proposed development, apart from the fact that it is offered by the developer, will plainly not be a material consideration and could be regarded only as an attempt to buy planning permission. If it has some connection with the proposed development, which is not de minimis, then regard must be had to it. But the extent, if any, to which it should affect the decision is a matter entirely within the discretion of the decision maker and in exercising that discretion he is entitled to have regard to his established policy."
- 9.3 The proposal is not in accord with the Development Plan and is harmful to the National Park and should be refused unless justified.
- 9.4 The applicant has put forward obligations which may constitute exceptional circumstances. The applicant considers the survival of Cavendish Mill and that of its workforce is dependent on planning permission being granted for vein mineral extraction at Tearsall. With permission forthcoming, the applicant considers it can implement various improvement plans for Cavendish Mill and the tailings dams, re-develop the Milldam underground Mine and continue to restore Longstone Edge to a high standard. The applicant considers there are environmental benefits to the National Park in keeping the vein mineral industry operational rather than a forced closure. The applicant has already offered to provide a restoration bond to secure the restoration of the site and to provide monies for annual verge passing place improvements.
- 9.5 Additional planning and environmental benefits being offered include:
- Not to work its mineral rights in an area of 105 hectares on the eastern end of Longstone Edge for a minimum four year period and whilst the company is extracting fluorspar from Tearsall under this current planning application. This offer is a significant material consideration as the Longstone Edge mineral extraction is potentially significantly more environmentally damaging than that proposed in the current application. This offer of planning gain is considered to constitute an exceptional circumstance. The temporary curtailment of working will provide a sufficient period of time to allow progress and resolution of the outstanding difficult legal process arising from a 1952 planning permission on the eastern end of Longstone Edge to be concluded.
 - An additional 5 years of aftercare is being offered at the Tearsall site beyond the 5 year period already provided by aftercare provisions. This implements policy GS1 and is a material consideration in that it would be intended to secure the future appropriate land management of the restored site.
 - The principle of investment in underground working and to achieve a requirement of a minimum of 15% of crude ore production from underground sources by end of 2011. Failure to meet this requirement would require cessation of operations at Tearsall. This effectively commits the Company to an estimated 25% of its acid grade output derived from underground sources.
 - A bond to secure restoration
 - To pay for the annual inspection of the highway and repair to the highway margins necessary due to damage caused by lorries associated with the development.

- 9.6 The proposed offers to not work the eastern end of Longstone Edge for 4 years, achieve specified level of production from underground by 2011, extend aftercare, provide a restoration bond & monies for passing place improvements are considered to meet the tests set out in circular 05/2005 in relation to planning obligations.
- 9.7 The applicant owns the vein mineral rights (which includes the limestone disturbed as a result of vein mineral working) on the eastern end of Longstone Edge, within an area covering about 105 ha, which has the benefit of planning permission for mineral working.
- 9.8 The planning permission granted in 1952 by the Ministry of Housing and Local Government allows for the winning and working of fluorspar and barytes and for the working of lead and any other minerals won in the course of working. When granted in 1952 the permission covered 155ha on a prominent limestone ridge about 5km north of Bakewell, within the centre of the National Park. Six conditions were attached covering the disposal of mineral waste, surface treatment of the waste, removal of permitted development rights for buildings and removal of plant and machinery when no longer required. There are no detailed working plans. Working can currently continue until 2042. About 15ha of the 1952 permission was revoked in 2004 following the granting of a permission covering mineral working on the western end of Longstone Edge.
- 9.9 The surface of the land and the mineral rights outside those mentioned above are in the ownership of another party (Bleaklow Industries Limited (BIL)). There are other areas covered by the permission, namely Backdale, Beacon Rod and Wagers Flat which are in the complete freehold interest of BIL. There have been long running and significant disputes over the interpretation of this permission and the extent to which limestone can be removed from the site under the 1952 permission, particularly at Backdale but also at Wagers Flat. Initial concerns were raised in 1989 over the amount of limestone being processed and removed from Backdale. Negotiations were held with the then operator in an attempt to reach agreement over the working plans for the area, without success. This operator went into receivership in 1996 and the lease was acquired by RMC Roadstone Eastern Ltd (RMC).
- 9.10 In 1997, a mineral review application was submitted by RMC (as a joint submission with Laporte Minerals – the predecessor of Glebe Mines Ltd) under the provisions of the Environment Act 1995. This provided details of working and proposed working conditions for the Longstone Edge site. The working details provided for Backdale, extending into Peak Pasture, identified a initial 15 year period of working, developing a 15 ha opencast working area, working to depths of 60 m. No information was provided over the quantity of vein mineral to be extracted but up to 300,000 tonnes of limestone was proposed to be removed per annum. The Authority considered this initial phase of development would release around 12 million tonnes of limestone and give rise to significant detrimental landscape, visual and amenity impacts. Forced to determine the submission, to avoid a deemed approval of the submitted scheme, knowing that it may be subject to legal challenge from the lack of an environmental statement (the mineral review provisions did not consider environmental statements were required to accompany the submissions; subsequent case law held that environmental statements were required to be submitted where the proposed development had a significant impact on the environment), the Authority amended the working plans for the Backdale and Peak Pasture area.
- 9.11 The determination made was judicially challenged by BIL (since it was not the applicant of the mineral review submission and could not appeal the determination through the planning process) on a number of grounds. In 1999 the High Court quashed the Authority's determination on the grounds that it had been determined without an environmental assessment. In light of the judgment the Authority sought environmental and other information from the applicant to enable the mineral review submission to be determined. Having ceased operating from the site in 1998, but tied to the site through the lease, RMC sought extensions of time in which to resolve the legal disputes and provide

the outstanding information. In 2003, another operator MMC secured a lease and commenced working at Backdale. The mineral review submission has remained stalled and undetermined to date for the want of additional information which the Authority has continued to require and without which the Authority cannot lawfully determine the application (under the stalled mineral review procedures).

- 9.12 Also in 2003, Glebe Mines Limited submitted an application to extract vein mineral from a site at Winster. This application was considered to be contrary to policy but the company was prepared to offer up its mineral rights on the eastern end of Longstone Edge as planning gain. This was considered to be a significant material consideration and the application was approved as a departure from the development plan policies following referral to the Secretary of State and the signing of a section 106 agreement.
- 9.13 This permission was subject to an application for judicial review by BIL. At an oral hearing leave was granted by Ouseley J for judicial review on three grounds: (a) Circular 1/97 as a material consideration, (b) sustainability, (c) planning implications of the Mines Working Facilities Support Act 1966. The case was heard in the High Court before Sullivan J who quashed the S106 agreement with immediate effect and the permission within 6 months of the date of the judgment. However, it should be noted that during the leave application, Ouseley J made it clear at the High Court, his view later endorsed by Sullivan J, that arrangements within National Parks whereby one permission given up in relation to another could be taken into account and was therefore a material consideration. He stated as set out at paragraph 47 of the Sullivan judgment "I regard it as perfectly obvious that a National Park faced with old permissions, potentially less controlled or controllable, in an area with which it is necessarily familiar, if only because of the controversy over Backdale, is entitled to look at the overall gains and losses to the environment of the National Park and the Peak District in deciding whether or not to grant or refuse permission." As such, the High Court upheld the principle of the decision to grant mineral working at Winster in exchange for relinquishing vein mineral rights at the eastern end of Longstone Edge.
- 9.14 Enforcement action at Backdale was pursued by the Authority in 2006 since the development appeared to the Authority to be the winning and working of limestone rather than the winning and working of fluorspar and barytes and the working of lead and any other minerals won in the course of working, the latter being permitted under the benefit of a planning permission granted in 1952. An appeal was lodged by the landowner and operator against the enforcement notice issued by the Authority. A public inquiry was held. The planning inspector upheld the Authority's enforcement notice, his decision containing a narrow interpretation of the 1952 permission. The landowner appealed against the inspector's decision and the High Court (Sullivan J) quashed the inspector's decision. The judgment contained a wide interpretation of the 1952 permission, allowing the removal, processing and sale of as much limestone as was necessary to access the fluorspar. An appeal was lodged by the Secretary of State and the Authority and permission has been granted for the matter to be re-considered in the Court of Appeal in February 2009. In the meantime mineral working, predominately involving a significant removal of limestone is continuing to take place at Backdale which has a significant detrimental impact on the nationally designated landscape, environment and amenities of the area.
- 9.15 If the Sullivan judgment with the wide interpretation of the 1952 permission is upheld, the remaining area of the 1952 planning permission (Backdale, Beacon Rod, Wagers Flat and Peak Pasture) could be extensively worked. At the public inquiry considering the appeal referred to above, BIL's consultant considered there were around 150,000 tonnes of fluorspar ore in the area to the north of Backdale in the Peak Pasture area. At that time Glebe considered there were no substantive deposits of vein mineral in the Peak Pasture area. However, in a recent planning application submitted by Glebe to continue working at the Arthurton West extension for a further 5 months, it identified that the area of Peak

Pasture, Backdale, Wagers Flat and Beacon Rod contained a resource of around 500,000 tonnes of fluorspar ore. In their letter of 19 November 2008 of proposed planning obligations, Glebe identifies the Peak Pasture area as containing an inferred resource of 400,000 tonnes of fluorspar ore. This figure is unsubstantiated and officers do not necessarily agree with it. With regard to limestone, no information has been provided on the amount of limestone that can be removed. No plans have been provided to show the full extent of working but there are potential resources of around 80 million tonnes within the area if the limestone could be removed. As such there is a risk of significant and permanent impacts on the landscape.

- 9.16 Whilst the new regulations (Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008) designed to enable stalled mineral review sites to be finally determined came into force in July 2008, the Authority has had to agree to further extensions of time in which to receive the additional information for the Longstone Edge site. This is to allow for the legal process to be concluded. It is considered that the legal process will provide an interpretation of the 1952 permission which will inform the overall design and extent of the working plans for the permitted area. If the interpretation is narrow the extent of working will be restricted in scale and extent, if the interpretation is wide then the working is likely to be extensive in scale and extent.
- 9.17 Further working at the eastern end of the Longstone Edge, if worked in accord with the Sullivan judgment, may be substantial in scale and extent, which would have significant and cumulative impact on the environment and amenities of the locality. Potentially the ridgeline on the eastern end of Longstone Edge could be removed leaving an extensive void. The ridgeline is a prominent feature in the landscape viewed from numerous locations in the local, middle & distant viewpoints, including Curbar Edge to the east, Bretton Edge to the north & Bramley Wood to the south.. There would be consequential impacts on the levels of noise and general disturbance, from the operations on local residents and visitors, including the detrimental effects of lorry traffic. There are no working plans and very few conditions controlling the development and no restoration requirements attached to the 1952 permission. As such the area could be left un-restored. When the mineral review submission is determined, restoration and aftercare conditions can be attached to the determination
- 9.18 Major development of the kind proposed at Tearsall is contrary to the policies contained in 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 Park. In considering alternatives, the proposed development at Tearsall would release 660,000 tonnes of ore (500,000 tonnes according to the Authority's consultant) compared with an inferred resource of around 400,000 tonnes in the Peak Pasture area on the eastern end of Longstone Edge according to Glebe Mines (un-substantiated and officers do not necessarily agree with it), The Peak Pastures site area is considerably larger, 105ha compared to 11.95 ha. No limestone is proposed to be removed from Tearsall compared to that which can potentially be removed at Longstone Edge.

	Tearsall	Peak Pasture
Duration	6 years	Minimum 4 years suspension and whilst Tearsall application is being worked ; 34 years overall duration.
Area	11.95 ha	105 ha
Resource/Reserve	500,000 - 660,000 t fluorspar ore No limestone	Unsubstantiated estimates of between 150,000 and 400,000t fluorspar ore; Potentially about 80 million tonnes of limestone
Environmental Impact	Significant landscape, visual & amenity impact.	Unquantified but potentially very significant landscape, visual & amenity impact & possibly other impacts.

- 9.19 The development at Tearsall would potentially create less disturbance to the National Park than the development at Peak Pasture, providing a net benefit to the National Park.
- 9.20 The temporary suspension of working for a minimum of 4 years should provide a sufficient period of time to enable the legal process, and any subsequent appeals, to resolve the interpretation of the 1952 planning permission to be concluded and facilitate determination of the stalled mineral review. An extension of time pending the resolution of the above legal process has been agreed under the 2008 Regulations for the mineral review. Alternatively, it would provide time to pursue a buyout package for the site and revocation procedures. The Court of Appeal is due to consider the appeal lodged by the Secretary of State (DCLG) and the Authority against the High Court judgment, which overturned the Planning Inspector's decision on the enforcement appeal decision at Backdale, on 10 and 11 February 2009. The Court of Appeal judgment is likely to be made by early April 2009. If the Authority was minded to approve the application and whilst the matter was being referred to the Secretary of State as a departure application, the Court of Appeal may subsequently find in favour of the Secretary of State DCLG and the Authority. However, there is potential for further legal challenges, whatever the outcome of the Court of Appeal hearing and the legal status of the Longstone Edge East permission would continue to remain uncertain until resolved, possibly after the matter is put before the House of Lords. In this context, it is considered the offer to suspend any potential working on Peak Pasture is substantive planning gain.
- 9.21 The offer to progress to underground workings and provide a proportion of the vein mineral ore processed at Cavendish Mill, originally 33.33% but now amended to 15%, shows the intent of the company to now invest in underground working. The previous owners of Glebe Mines did not make that investment. Working by underground methods has significantly less environmental impacts than working by opencast methods. Whilst working by opencast methods may be cheaper, this is achieved at the expense of the environment. Opencast working has the potential to result in significant landscape and visual impacts.
- 9.22 The applicant has offered an additional 5 years of aftercare at Tearsall. This would be of some benefit for biodiversity at the site.

- 9.23 The proposal includes the temporary suspension of working on the eastern end of Longstone Edge (Peak Pasture). 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 or being granted the rights to work. The interested party must show that it has not been practicable to negotiate private arrangements to work the mineral and must be able to satisfy the Court that a right of grant is expedient in the national interest. Notwithstanding the DBERR letter, it is considered unlikely (see discussion on need in earlier sections of the report) that an application would succeed in relation to Peak Pasture within the time period specified since working on Peak Pasture would only be suspended for a temporary period and alternatives of fluorspar exist.
- 9.24 On balance, taking into account all the material planning gain identified above, the proposal is considered to be of overall benefit to the environment of the National Park, in accordance with policies in PPS7, MPS1, GS1 and M2(a). Overall the benefits are cumulative and meet the tests of Circular 05/2005 and are of sufficient benefit to the National Park to justify departure from policy.
Letter sent by solicitors on behalf of Bleaklow Industries Ltd
- 9.25 The Authority has received a letter dated 10 December 2008 from Bremners, the solicitors for Bleaklow Industries Ltd (BIL), the freehold owners of Peak Pasture. (The rights to the vein minerals and "limestone it is necessary to disturb" in extracting the vein minerals are owned by Glebe Mines Ltd). The main points raised in the letter (which is attached as an Appendix) are:
- The Committee is referred to the judgment of Mr Justice Sullivan dated 29 November 2006 and the comments therein regarding the use of the section 106 procedure to attempt to forestall or pre-empt the rights of parties affected by, but not party to, any such procedure.
 - It follows from that judgment that any subsequent attempt to impinge upon the 1952 Permission area by the use of the same means would be inherently flawed, and susceptible of challenge, particularly having regard to the outstanding matters which are the subject of the hearing before the Court of Appeal in February 2009.
- 9.26 The judgment of Mr Justice Sullivan referred to is that relating to the application for planning permission at Winster, as referred to above in paragraphs 9.12 and 9.13.
- 9.27 After receipt of this letter the Head of Law wrote to Bremners asking them to elaborate on their comments and to let us have any further representations by 6 January 2009. However at the date of this report nothing further had been received.
- 9.28 The principle of this type of arrangement was accepted as lawful by the High Court in the *Winster* case. The criticisms of the Court generally related to whether Members were properly advised of Government policy and had sufficient information to make the decision. In this case officers have drafted the report, with the advice of counsel, in such a way as to minimise the risk of challenge. However, Members need to be aware that an aggrieved person is entitled to seek judicial review of a decision to grant planning permission, and the possibility of a successful challenge cannot be discounted.

9.29 In coming to a view as to what weight to give to the offered planning gain Members need to take into account the details of what is being offered in relation to Peak Pasture, including the prospects of resolution of the case or further challenges following the Court of Appeal hearing in connection with Backdale.

10 Overall balance of analysis on submitted proposals

10.1 Factors against:

1. Significant detrimental landscape and visual impacts from distant medium and local viewpoints for the duration of the operation and landscape impacts following completion of the development.
2. Significant detrimental amenity impacts on local residents and public footpaths and highways arising from the development.
3. No demonstration that there is a national need for fluorspar
4. Alternative sources of fluorspar are available from existing permissions within the National Park, from Derbyshire, North Yorkshire and Durham and international supplies and including the existing underground permissions at Milldam and Watersaw Mines, although the applicant's view is that significant capital investment is required to bring the underground alternatives on line.

10.2 Factors in support:

1. Economic importance of fluorspar both locally and regionally.
2. Continue to supply Cavendish Mill with vein mineral ore, including an increasing amount from underground working, thereby maintaining the vein mineral processing plant at Cavendish Mill, the downstream operations which use the processed mineral and employment.
3. Effect on national economy.
4. Planning gain from:
 - not using its mineral rights on the eastern end of Longstone Edge for a minimum temporary period of 4 years from the granting of Tearsall.
 - an additional 5 years of aftercare
 - a bond to secure the restoration of the site in the event that the company ceases trading
 - verge passing bay improvements undertaken on an annual basis.

11. Conclusion

11.1 The Authority has a statutory duty to protect the landscape and scenic beauty of the National Park. To achieve this it is necessary, amongst other things, to prevent inappropriate development from taking place in the open countryside. Policies, at both national and local level, support this approach.

11.2 Members will need to consider the proposal against the national policies, the development plan policies, including the regional spatial strategy, 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 development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements they may be refused. However, development proposals which might otherwise be unacceptable may be possible to make acceptable through the use of planning conditions and planning obligations.

- 11.3 It is important that a rigorous assessment is carried out. If Members are minded to accept the proposal they must be satisfied that:
- either there is a need for the mineral in terms of national considerations of mineral supply and that the need for the mineral overrides the need to protect the Park, there are no alternatives available, the environmental impacts can be moderated to an acceptable level;
 - and/or there are material considerations whereby an approval would be in the public interest and would conserve or enhance the overall character of the National Park.

On the other hand, if Members wished to refuse the application there must be clear and specific reasons for the refusal that could be defended on appeal, if necessary.

- 11.4 The proposed development at Tearsall is major development and would not generally be acceptable in policy terms. Alternative sources of fluorspar are considered to be available in principle, although that is not accepted by the applicant, and if they are the view can be taken that there is no need for the development to take place at this site, as such the proposal is contrary to policy M2(b). The proposal is also contrary to policy M3, in that it has not been demonstrated that the development is required to meet a national need which overrides the need to protect the Park. There are significant landscape and visual impacts and adverse amenity impacts arising from the proposed workings, including traffic, as such the proposal is contrary to C2, T1 and LM1, in that the effects on landscape and amenity cannot be acceptably mitigated.
- 11.5 However, the applicant has offered to commit to planning gains and as subsequently updated. The applicant has now resolved the outstanding technical matters relating to the working method and stability concerns and demonstrated that the proposed development can be controlled to minimise some of the impact of the development.
- 11.6 Taking into account the material considerations, on balance the proposal is considered to be of overall benefit to the environment of the National Park. As such it is considered to be in the public interest to allow this development.
- 11.7 If members consider that the exceptional circumstances would not be of overriding weight, members should consider refusal on the following grounds:
- The proposal is major development which would cause unacceptable harm to the National Park in conflict with Development Plan policy GS1, & M2.
 - Even if an unmet need existed for fluorspar it would not outweigh harm to the designated landscape, wildlife and cultural heritage of the National Park. Alternative sites and sources of supply are available. Consequently it is not in the public interest to allow the development. The development is contrary to Development Plan policies GS1, M2, M3, LM1.
 - The proposal would result in an unacceptable impact on the designated landscape interest. The development is contrary to Development Plan policy C2.
 - The proposal would result in an unacceptable impact on the amenities and environment of the National Park from lorry traffic associated with the development. The proposal is contrary to Development Plan policies C15, T10, LM1, LT10.
 - The offered planning gain is insufficient to constitute exceptional circumstances warranting departure from the development plan.
- 11.8 As the application is contrary to policy, in the event of resolution by the Authority to approve, it will be necessary to refer the matter to the Secretary of State to assess whether she wishes to call in the proposal.

Human Rights

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

RECOMMENDATION:

1. That the Authority resolves to **APPROVE** the application subject to the following:
 - A. That the Secretary of State (DCLG) be informed that the Authority is minded to approve the application as a Departure from the Development Plan on the basis outlined in recommendation B.
 - B. That subject to the prior completion of a Section 106 legal agreement whereby the applicant (and successors in title) formally agree:
 - not to work the mineral rights it owns (the vein mineral and the limestone disturbed) on the eastern end of Longstone Edge for a minimum period of 4 years & whilst extraction at Tearsall is being carried out under permission ref NP/DDD/0208/0104.
 - to achieve a minimum of 15% level of production by volume feed into Cavendish Mill from underground sources by end of 2011.
 - to offer a 5 year extended aftercare agreement at Tearsall
 - a bond to secure restoration
 - to pay for the annual inspection of the highway and repair to the highway margins necessary due to damage caused by lorries associated with the development.
 - C. The approved application ref NP/DDD/0208/0104 is subject to conditions covering the following broad matters:
 - duration
 - hours of operation
 - haulage (lorry numbers)
 - phasing of work
 - output
 - stability
 - cut-off grade
 - site access
 - planting
 - landscaping
 - ecology
 - archaeology
 - noise
 - dust
 - progressive restoration
 - 5 year aftercare
 - D. Footnotes: protected species, diversion of public right of ways; waste management.
2. That authority be delegated to the Head of Planning and Head of Law jointly to determine the details of the S106 agreement.
3. That authority be delegated to the Head of Planning to approve the final details of the conditions.

List of Background Papers (not previously published)

Nil