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My Ref: JC/LB/H110B
Your Ref: CP/MIN 2382
Date: 17 January 2014

Mr R Cooper
Assistant Solicitor, Legal Services
Peak District National Park Authority
Aldern House
Baslow Road
Bakewell
Derbyshire
DE45 1AE

Dear Mr Cooper

Peak District National Park Authority (Deep Rake, Hassop (Longstone Edge East))
Prohibition Order 2013

I enclose for the Authority's attention a copy of representations that have today been submitted to the National Planning Policy Casework Unit following service of the above Order. I shall be grateful if you will acknowledge receipt of these copy documents.

Yours sincerely

PP. J Palmer

John Church
Enc

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My Ref: JC/LB/H110B
Date: 17 January 2014

**National Planning Casework Unit
Department for Communities & Local Government
5 St Philips Place
Colmore Row
Birmingham
B3 2PW**

COPY

Dear Sirs

**PEAK DISTRICT NATIONAL PARK AUTHORITY (DEEP RAKE, HASSOP (LONGSTONE
EDGE EAST)) PROHIBITION ORDER 2013**

I am instructed by Bleaklow Industries Limited, who for the avoidance of doubt act also as Agent in this matter for British Fluorspar Limited, to submit the enclosed representations in respect of the above Prohibition Order. I shall be grateful if you will acknowledge receipt of this letter and the accompanying representations as soon as possible.

Yours faithfully



John Church
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TOWN & COUNTRY PLANNING ACT 1990

TOWN & COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT (ENGLAND AND WALES)) 1999

PEAK DISTRICT NATIONAL PARK AUTHORITY (DEEP RAKE, HASSOP (LONGSTONE EDGE EAST)) PROHIBITION ORDER 2013

STATEMENT ON BEHALF OF BLEAKLOW INDUSTRIES LIMITED & BRITISH FLUORSPAR LIMITED

1. INTRODUCTION

1.1 Bleaklow Industries Ltd (the applicant) is one of several parties upon whom the Peak District National Park Authority (Deeprake, Hassop (Longstone Edge East)) Prohibition Order 2013 has been served. Bleaklow Industries Ltd acquired its freehold interest in land to which the Order relates in 2012. British Fluorspar Limited owns the mineral rights within part of the applicant's land and representations are submitted on its behalf also. The accompanying letter from the Company's Chairman sets out its case. (Appendix A).

1.2 Notwithstanding the very restricted timetable afforded by the Peak District National Park Authority's action in signing and sealing the Prohibition Order on 23 December 2013 and its failure to serve the Order on the applicant until 6 January 2014, the applicant wishes to be heard in opposing the Prohibition Order for the reasons, summarised below, upon which it will wish to expand in submitting full details of its case.

2.0 REASONS FOR OBJECTION TO THE ORDER

2.1 Since acquiring its interest in land to which the Prohibition Order relates, the applicant has endeavoured to find common solutions to problems of mutual concern with the Peak District National Park Authority, including matters in respect of the restoration, future use and aftercare of some of the land to which the Prohibition Order relates.

2.2 At no stage has the Authority responded positively to this approach. The applicant is not, moreover, satisfied that the winning and working of minerals and the depositing of mineral waste on the land has permanently ceased. The applicant finds it difficult to accept, having considered the content of the extensive "Statement of Reasons" that accompany and seek to justify the Prohibition Order, the view of the Mineral Planning Authority that, on the evidence available, the resumption of winning and working of minerals and the depositing of mineral waste is unlikely and that mineral working has permanently ceased. Accordingly, it is submitted that it was inappropriate for the Mineral Planning Authority to pursue prohibition in the absence of a firm, mutually agreed intention not to pursue the extraction of minerals and the associated matters.

2.3 Indeed, it is noted that a presentation was made to the Authority's Planning Committee at its meeting on 15 November 2013 when the decision to serve the Prohibition Order was taken, to the effect that the mineral operator, British Fluorspar Limited (who own certain mineral rights within the area to which the Prohibition Order relates), had not abandoned its plans with regard to the land to which the Prohibition Order relates. Specific evidence was submitted to the Committee relating to an agreement under Section 106 of the Town & Country Planning Act 1990 in respect of a site at Tearsall, within the Peak District National Park, by means of which the mineral operator had undertaken not to seek to work any minerals remaining within the planning permission area at the eastern end of Longstone Edge during a specified temporary period.

2.4 Since it is the requirement of a Prohibition Order that the Local Planning Authority must be satisfied that the winning and working of minerals has permanently ceased, and this requirement has not been demonstrated, it is, accordingly, requested that the Order should not be confirmed by the Secretary of State.

2.5 The requirements for restoration and aftercare set out in the Schedule to the Prohibition Order are considered unsatisfactory. On one hand, the Order (paragraph 2 (i) and 2 (ii)) requires that all plant and machinery which was used for the purpose of the winning and working of minerals or the depositing of mineral waste and all buildings, structures, foundations, hard-standings and roadways associated with the winning and working of minerals and depositing of mineral waste shall be removed from the land within a period of 24 months, the land being the area to which the red edge on Plan A relates. On the other hand, the delineated blue edge in respect of Backdale Quarry, shown on Plan 2, specifically excludes the former mineral processing plant at the Quarry that lies within the red-edged planning permission boundary set out on Plan A. The plant at Backdale Quarry is the subject of an undetermined application for a Lawful Development Certificate for an existing use under the provisions of Section 191 of the Town & Country Planning Act 1990 by which the applicant seeks to establish its lawful use for the purposes of the manufacture of matured slaked lime putty and pre-mixed mortars solely from imported raw materials and the use of land for ancillary offices, such use having been carried out without interruption for a period of ten years prior to the date of the application (24 October 2013). The lack of clarity in the drafting of the requirements of paragraphs 2 (i) and (ii) of the Prohibition Order has introduced an uncertainty as to the requirements which have not been clarified by subsequent correspondence with the Authority at the date of the submission of these representations.

2.6 The restoration plan in respect of Backdale Quarry (Plan 2) is to a small scale and it is considered to be insufficiently specific as to the Authority's detailed requirements. Given that the restoration scheme provides for the reinstatement of a diverted public footpath (Hassop FP10), the plan is not accompanied by a detailed Engineering Method Statement. The

applicant is not satisfied that the restoration scheme is sufficiently detailed as to give proper consideration to the interests of public safety within the quarry area and the requirements as set out on Plan 2 are, therefore, unacceptable. Apart from delineating a restored elevated line for the public footpath on bank B1, no continuing line in a north-easterly direction for the reinstated public footpath is shown and no engineering design solution has been provided.

2.7 Notwithstanding the above, the applicant has been in advanced discussions with the Authority's Officers during late 2013 with regard to an alternative route for the permanent diversion of footpath 10, as shown on the Authority's attached drawing enclosed as Appendix B. This diverted route has been the subject of consultation with interested parties and the publication of a Diversion Order is imminent. The requirement to reinstate the public footpath within the blue-edged area delineated on Plan 2 is, therefore, inappropriate. In that its reinstatement, as required by the Prohibition Order, necessitates the pre-profiling of land to accommodate its route, the requirement is unnecessary and it will potentially expose the applicant to significant and abortive expenditure which is also unjustified.

2.8 The re-contouring required pursuant to the implementation of the proposals contained on Plan 2 exceeds what is necessary in other respects. It includes, for example, areas that have become regenerated with vegetation and the implementation of its requirements would, accordingly, be prejudicial to the recently emerged landscape character and appearance of the area.

2.9 Insofar as the land at Wagers Flat is concerned (shown on Plan 1), the applicant had commenced restoration works, including re-contouring to a standard at least compliant with the Authority's requirements, prior to the service of the Prohibition Order. These works will, it is anticipated, have been completed by the end of February 2014 to a standard exceeding the requirements of the Prohibition Order. Following final soiling and seeding, this land is expected to have been returned to a productive and beneficial agricultural use by the summer of 2014. The restoration requirements set out on Plan 1 are, therefore, unnecessary.

2.10 The Authority's Statement of Reasons for the Prohibition Order has been carefully noted. Notwithstanding the Authority's analysis of the "real and genuine intention to work the site" and the summary of factors in the assessment of whether work has permanently ceased, the overview of discussions held with the applicant pursuant to the purchase of the land set out in paragraphs 23 – 33 is unfortunate. Indeed, as reflected in paragraph 28, whilst it was previously indicated that the owner "cannot discount the potential for some mineral recovery", it has always been made clear to the Authority that the overall priority was to agree with it a way forward that would benefit all interested parties. The allegation that the owner is merely hoping to use voluntary revocation or exchange of the mineral permission in respect for planning permissions that might not otherwise be granted is totally refuted.

3.0 CONCLUSION

3.1 The Mineral Planning Authority's Statement of Reasons to support the Prohibition Order is extensive and discursive. It highlights arguments and refers to evidence that indicate that mineral working in the Longstone Edge East Planning Permission has only temporarily ceased, rather than permanently ceased. The service of the Prohibition Order is not, therefore, in the public interest in regard to potential mineral recovery, particularly having regard to the reasons set out in paragraphs 2.1 – 2.4, above.

3.2 The Mineral Planning Authority has been consulted in a meaningful and positive way by the applicant in regard to sustainable proposals for restoration and end-uses at Wagers Flat and Backdale Quarry, as well as receiving a formal application in regard to the lawful use of the processing plant at Backdale Quarry. The restoration requirements pursuant to paragraphs 2 & 3 of the Prohibition Order and contained within the accompanying Schedule are insufficient in detail in respect of Backdale Quarry, for the reasons set out in paragraphs 2.5 – 2.8, above, and they are wholly unnecessary in respect of the land at Wagers Flat for the reasons outlined in paragraph 2.9. In both cases, they exceed what is necessary



particularly having regard to the applicant's endeavours to reach agreement on the future use and appearance of the site, the brief background to which is set out in paragraphs 2.1 and 2.2.

3.3 The Secretary of State is requested to afford an opportunity for the applicant to be heard before a decision is reached but is requested, nevertheless, to decline to confirm the Prohibition Order.

A handwritten signature in black ink, appearing to read "John Church".

John Church on behalf of Bleaklow industries Limited & British Fluorspar Limited

17 January 2014



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13 January 2014

National Planning Casework Unit
Department for Community and Local Government
5 St Phillips Place
Colmore Row
Birmingham
B3 2PW

Dear Sirs

**PLANNING PERMISSION REFERENCE 1898/9/89 DATED 24 APRIL 1952
PROHIBITION ORDER -- LAND AT DEEP RAKE, HASLOP (LONGSTONE EDGE EAST)
DERBYSHIRE**

On 23 December 2013 British Fluorspar Ltd (BFL) was served with a notice of the making of a Prohibition Order by the Peak District National Park Authority for the abovementioned site. The Order is made under Paragraph 3 of Schedule 9 of the Town and Country Planning Act (Environmental Impact Assessment)(England and Wales) Regulations 1999 (as amended) prohibiting the resumption of development consisting of the winning and working of minerals and the depositing of mineral waste on the land and imposing requirements in respect of the remediation, restoration and aftercare of the land.

The Order will not take effect unless it is confirmed by the Secretary of State, affected parties can seek a hearing by a person appointed by the Secretary of State if they provide written notice within 28 days of the issuing of the Order. This letter should be regarded as such notification.

A summary of the BFL case that would invalidate the Prohibition Order is outlined below as part of the assessment process.

The Environment Act 1995 provides for periodic reviews of mineral planning permissions (ROMPS) and the EIA Regulations 2008 provide for the making of a Prohibition Order where a mineral permission has been suspended for more than two years. Under these regulations the MPA may request an Environmental Statement with a deadline for submission. If the information is not supplied by the prescribed date then the site enters automatic suspension. In the case of Longstone Edge East this date was 1 November 2010.

In order for the MPA to serve a Prohibition Order the MPA must be confident that there is not a real and genuine intention to resume work at the site. Prior to Longstone Edge East entering automatic suspension the MPA granted permission for the extraction of fluorspar at Tearsall, Bonsall Moor, by open pit methods. This planning permission was granted subject to the completion of a S106 Agreement. One of the provisions of the Tearsall S106 Agreement is

not to carry out winning or working of fluorspar or associated vein minerals on the Longstone Edge land

- (a) *For a minimum of 4 years beginning on the date of the planning permission; and*
- (b) *At any time after the period of 4 years referred to in (a) above whilst the winning or working of minerals is taking place on the Tearsall land pursuant to the planning permission*

British Fluorspar Ltd
Registration No. 3050701
VAT No. 13779977

The Tearsall decision notice was issued on 21 June 2010 and the S106 Agreement signed on 24 June 2010. On this basis the MPA recognised BFL's right to work their portion of Longstone Edge East and sought a temporary cessation of these rights in exchange for working Tearsall.

Longstone Edge East went into automatic suspension on 1 November 2010, that is nearly 5 months after it was agreed not to work the area for a period of at least four years. It was therefore clear to the MPA that the company still intended to work Longstone Edge East and temporarily traded these rights prior to the site entering automatic suspension.

As to the fact that a full environmental statement was not supplied, the terms of the Tearsall S106 Agreement would have rendered this work abortive and unnecessary. An Environmental Statement is a complex process with a limited period for which the assessment of impacts and mitigation are applicable. Undertaking the production of an Environmental Statement when there is no prospect of working Longstone Edge East for a period of not less than four years would not represent economic or industrial best practice.

On the basis of the above it is considered that it would be inappropriate for the Prohibition Order to be formalised on land at Longstone Edge East as it has been clearly demonstrated that there has been an intention to win and work minerals on the land in question.

A further consideration in determining whether a Prohibition Order is appropriate is an assessment of the future trends in production and markets for the product. The statement of reasons prepared by the MPA is based on historic data and did not include any dialogue with BFL, the only UK producer of fluorspar, located within ten miles of the MPA offices. Since BFL's establishment in May 2012 it has invested significantly in the development and production of fluorspar in the Peak District National Park. The MPA does not appear to have considered this significant change of circumstance in the production of the supporting statement.

On this basis it is not considered that sufficient assessment of trends and markets for fluorspar has been completed in the preparation of the Prohibition Order.

I trust that this provides a sufficient summary of information to enable a hearing to progress in due course. If further clarification or detail is required on the above do not hesitate to get in contact.

I look forward to hearing from you in due course

Yours faithfully



PETER ROBINSON
Chairman
BFL

