



3/25 Hawk Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Direct Line: 0303 444 5573  
Customer Services: 0303 444 5000  
Fax No 0117 372 6298  
e-mail: environment.appeals@pins.gsi.gov.uk

To whom it may concern

Your Ref:

Our Ref: APP/NPCU/PROH/M9496/73265

Date: 07 August 2015

Dear Sir or Madam

**THE TOWN AND COUNTRY PLANNING ACT 1990  
PEAK DISTRICT NATIONAL PARK AUTHORITY LAND AT DEEP RAKE, HASSOP  
(LONGSTONE EDGE EAST) PROHIBITION ORDER**

I write further to the scheduling of the Inquiry to hear objections into the above-cited Order. The Inquiry will open on Tuesday 19 January 2016 at a venue that will be announced in due course. The appointed Inspector, Chris Hoults BA(Hons) BPhil MRTPI MIQ, has carried out an initial review of the file and notes that there have been developments regarding the position of the main objectors to the Order, which I shall explain below for the benefit of all interested parties. The Inspector considers that it would be helpful to the parties to hear his preliminary, without-prejudice views on how the appeal might proceed, in the light of these developments and the objectors' cases as he understands them on the basis of the papers currently before him. He has also asked me to raise some house-keeping matters.

As you will know, this Inquiry has been held in abeyance pending, among other things, possible further evidence from the objectors in the form of the results of further exploratory drilling aimed at establishing the workable fluorspar resource, if any, within the relevant planning permission area. By way of a letter dated 9 July 2015, British Fluorspar Limited (BFL) has now indicated that, following these investigations, there is insufficient evidence of an economically viable fluorspar resource within the Prohibition Order area and that it wishes to remove (i.e. withdraw) its remaining objection to the Order.

The views of the other main objector, Bleaklow Industries Limited (BIL), and the National Park Authority (NPA) were sought further to this letter, as regards any remaining objection and any implications for the holding and timetabling of the Inquiry. BIL confirmed that it does not wish to object to the prohibition on mineral working, only to the restoration requirements contained in the Order. This appears to be a change from the position it adopted in its response of 2 May 2014 to the Statement of Case of the National Parks Authority (NPA). For its part, the NPA is of the view that, in the light of this development, the duration of the Inquiry could be shortened and clarified that the main area of dispute regarding restoration is in relation to Backdale Quarry. However, it considers that 8 sitting days may well still be required.

On that basis, a letter from the Planning Inspectorate has been sent out to the main parties

fixing the dates of the Inquiry. It will sit from 19-22 January and from 26-29 January 2016. However, the parties should know that the Inspector is sceptical that much time will be needed to deal with the remaining objections, for the reasons I give below, and he has requested me to ask them, in particular, BIL, to focus on the remaining areas of dispute regarding the Order, what evidence they will seek to adduce, how many witnesses they intend to call and what implications this may have for the number of sitting days required.

While the Inspector is also conscious that these latest developments will no doubt be of encouragement to those interested parties who support the making of the Order, he cannot rule out that they may also have views regarding the scope of any restoration requirements, for which time can be set aside at the Inquiry. He notes that, in its initial representation of May 2014, Friends of the Peak District (FPD) indicated its interest in the impact of any restoration on the footpath network on Longstone Edge. It would therefore be helpful to the Inspector if they also could give an indication of whether they would still wish to be heard, in the light of this and given the Inquiry's much reduced scope.

Turning to the matters in dispute, from reading Mr Church's statement on behalf of BIL and BFL attached to his letter of 17 January 2014, and his response of 2 May 2014 to the NPA's Statement of Case, it would appear that they focus upon the requirements of the Order in so far as they affect the restoration of Wagers Flat and Backdale. As regards Wagers Flat, he understands that its restoration is proceeding, though not in accordance with the requirements as set out in the Order. While it is therefore possible that restoration could be agreed, and proceed, separately from the Inquiry process, there remains the question of whether the Order should be modified to reflect any agreed restoration scheme.

As regards Backdale, the Order requires (among other things) the removal of: (i) all plant and machinery used for the purpose of the winning and working of minerals or the depositing of mineral waste or any purpose ancillary to that purpose; and (ii) all buildings, structures, foundations, hardstandings and roadways associated with the winning and working of minerals and the deposit of mineral waste.

The objector refers to an outstanding application for a Lawful Development Certificate (LDC) for the use of the plant for the manufacture of slaked lime putty and pre-mixed mortars solely from imported materials and the use of the land for ancillary offices, such use having been carried on uninterrupted for a period of 10 years prior to the date of the application (24 October 2013). The plant is outside the blue-line area of Plan 2 but within the 1952 planning permission area and so is covered by the Order. The objector's comments on this matter, however, date from early 2014 and it would be helpful for the Inspector to know to what extent matters have moved on or will have moved on regarding the outcome of this application by the time the Inquiry opens.

The Inspector has given some initial thought to the implications of this application and in particular what the implications would be should the application remain undetermined or the NPA be minded to grant a LDC. In either case, the Inspector questions its direct relevance to the requirements of the Order. Its wording, in so far as it refers to the removal of plant etc. is as set out above. What needs to be removed are those items associated with the winning and working of minerals, the deposit of mineral waste or any ancillary purpose thereto. The LDC is premised on the plant having a lawful use for the processing of wholly imported materials. If the application were successful, it seems to the Inspector that that lawful use would be independent of any requirement to remove it in so far as it was used in association with mineral working etc. In the light of this, he questions whether its outcome has any direct bearing on whether the Order should be confirmed.

The other main area of dispute appears to be with regard to the restoration scheme itself, which the objector considers to be inadequately detailed, including in so far as it may need

to provide for the reinstatement of a public footpath. Reference is made to discussions, and apparent informal agreement, on an alternative route for the footpath. Again, matters will have moved on from January 2014 and it would be helpful for me to know what the prospects may be for any resolution of this dispute by the time the Inquiry opens.

However, the footpath diversion will, the Inspector presumes, be being considered under separate legislation from planning legislation. Thus, in the Inspector's view, the Order only needs to make provision for the footpath being reinstated on its original route in the event that the proposed diversion, or any alternative route which might be considered, is found to be unacceptable. Provided adequate provision is made for that, he cannot see why any confirmation of the Order should be held up by an unresolved issue regarding an alternative route. The Inspector notes that the objector says that the restoration plan does not adequately provide for any footpath reinstatement but whether or not it could be modified to allow for that seems to him to be the only outstanding matter for debate on this issue.

On the basis of the documents currently before him, it seems to him entirely possible that the outstanding matters for debate which bear upon whether the Order should be confirmed, and whether with or without modification, are matters which could adequately be dealt with, quite possibly in a round-table discussion within the Inquiry format (much like the session on conditions in a typical s78 appeal Inquiry), in a maximum of 2-3 days including the site visit.

I would ask both BIL and the NPA to confirm whether the Inspector's understanding of the remaining matters in dispute is correct and, if so, to give consideration to the views he has set out in this document. He is happy to hear legal submissions either supporting or disputing his views on the matters for debate and timetabling implications. In any event, the parties now need to turn their attention to the matter of witnesses to be called and proofs of evidence to be submitted in support of their respective cases, in the light of the foregoing.

On this matter, BIL should be aware that, if any material new evidence is submitted in support of its case, in the interests of natural justice, time will need to be given for the NPA, FPD and any other parties supporting the Order to consider it and prepare their evidence accordingly. The Inspector notes FPD's expectation of being able to comment on any representations made by objectors following the submission of its initial representation but anticipates that this can be incorporated in any evidence it may wish to submit to the Inquiry in support of its position. Therefore, the onus is now on BIL to make clear the basis of its remaining objection and confirm its position and what evidence it will be submitting in support of its case. The Inspector is seeking this information at the earliest possible opportunity, as it will have implications for any other evidence which he might need to hear and, in turn, for the timetabling of the Inquiry.

There is another reason why the Inspector regards it as important that these matters should be resolved as soon as possible. The parties will no doubt be aware of the current strain on the Inspector resource in appeal casework nationally. In the interests of managing his wider availability for casework in the most efficient manner, the sooner he is clear regarding the likely duration of the Inquiry, the sooner he will be able to say whether and to what extent he may be available for other casework in the time currently set aside for this Inquiry.

To turn to more detailed procedural matters, on the matter of deadlines for the submission and cross-copying of any proofs, the only thing I wish to raise at this stage is that, given that the four-week period prior to the opening of the Inquiry will include the Christmas and New Year break, the Inspector will be looking for proofs to be exchanged by early

December. His intention would be to set a deadline of 8 December 2015, 6 weeks before the Inquiry opens.

Finally, there are some house-keeping matters that he wishes to raise. In the Order, at Step 8, for Backdale, there is a requirement to re-grade the area shown edged blue on Plan 2 "to the levels attached hereto". The Inspector's copy of the Order has no attachment showing levels. Can the NPA provide me with a copy of it, please? Mr Church's statement of 17 January 2014, at paragraph 2.7, refers to discussions with the NPA on an alternative route for the footpath "as shown on the Authority's attached drawing enclosed as Appendix B." No appendices are attached to the Inspector's copy of Mr Church's statement. Can a set of appendices be provided, please?

The final matter relates to the NPA's Statement of Case, which has two lever arch files containing background documents, volumes 1 and 2. The Inspector has tried to read through these files, initially, but they are difficult to follow. The documents on them do not appear to follow the document list for each volume at the front of Volume 1 and it is unclear what some of them relate to.

— The Inspector accepts that this may be a consequence of their submission in electronic form and subsequent printing. He would nevertheless be grateful if the NPA could forward to me a further hard copy of these files clearly divided and indexed (and preferably paginated) so that it is clear what documents they contain – to save him taking up preparation time for the Inquiry trying to establish their contents, time that would be better spent engaging with the parties' respective cases. I would be grateful if the NPA could see to that, please.

The Inspector has not set a deadline for the parties to confirm their position, and how they intend to progress matters. However, you should know that he is shortly to have an operation which will require several weeks' recovery – thus, he is unlikely to be actively undertaking casework until well into the autumn. In order to be able to programme his availability for casework as far ahead as possible, I would be grateful if the parties could therefore let me know how they wish to proceed by no later than close of business on 28 August 2015.

I trust that all this is clear but, if anyone has any queries, please contact me via email, telephone or post as set out in the header above.

Yours sincerely



Jenny Tynan  
Environment and Transport Team