

6. REVIEW OF OLD MINERAL PERMISSION AT DEEP RAKE, HASSOP (LONGSTONE EDGE EAST) (M.2382/CP/DGB/JEN/JJL)

Purpose of the Report

1. To provide publicly available information to Planning Committee about the provisions of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) ('the Act') and the Town and Country Planning Environmental Impact Assessment (England and Wales) Regulations 1999 ('the 1999 Regulations') as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008 ('the 2008 Regulations'). Other, exempt, information pertaining to legal and financial matters is set out in a separate Part B report on the agenda.

Key Issue

2. When an old mineral permission has been in automatic suspension for a period of 2 years and the relevant environmental information required by Regulations has not been provided, the key issue is whether the Authority has a duty at that time to make a Prohibition Order. Under the Regulations, only if it appears to the Authority that mineral working has permanently ceased will it be under a duty to make a Prohibition Order. Such an Order would prohibit the resumption of mineral development and may impose, in relation to the site, restoration and aftercare requirements, having regard to the statute and the regulations. Any such order would not take effect unless it is confirmed by the Secretary of State.

Recommendation:

3. That Planning Committee:

1. Considers the legal and planning issues set out in this report and notes the officers' assessment of whether working at Longstone Edge East has permanently ceased.

2. Uses the consideration of the information in the Part A report to guide its consideration of the accompanying report in Part B of the agenda.

How does this contribute to our policies and legal obligations?

4. The review of old mineral permissions contributes to Corporate Objective 3, to provide a high quality planning service to the community of the National Park that achieves national park purposes and that is responsive to and contributes to the debate on planning reform nationally and locally.

Relevant Statute, Regulations and National Guidance

5. The relevant legal framework and national guidelines relating to suspended mineral permissions and the duty to make a proposed prohibition order are set out in:
 - The Town and Country Planning Act 1990 (as amended) Paragraph 3 of Schedule 9;
 - Town and Country Planning (Environmental Impact Assessment) Regulations 1999, as amended*;
 - The Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008;

- Minerals Policy Guidance (MPG) 4 (Revocation, Modification, Discontinuance, Prohibition and Suspension Orders). Paragraphs 12 to 17 set out the advice on Prohibition Orders;
- MPG14 (Environment Act 1995 – Review of Mineral Permissions) paragraphs 121 and 122;
- Environmental Impact Assessment and ROMPs – Guidance on Regulations (DCLG, July 2008)

*The 1999 Regulations have been revoked and replaced by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, but they continue to apply to undetermined applications and applications which were lodged before 24 August 2011.

Legal Duty to Make a Prohibition Order

6. The Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008 were introduced to enable Mineral Planning Authorities (MPAs) to determine applications to review old mineral permissions (ROMPs) in accordance with the Environment Act 1995, the Environmental Impact Assessment Regulations 1999 (as amended) and the requirements of the European Council Environmental Impact Assessment Directives.
7. Previously, if an MPA had not been provided with sufficient environmental information to determine a ROMP, it could not compel the operator to supply it. Work at a site could continue under the, often environmentally damaging, terms of the old permission. These applications became known as “stalled” ROMPs.
8. The 2008 Regulations gave MPAs the power to require operators to submit, within a specified timetable, all the environmental information that was necessary to enable the MPA to determine stalled ROMPs. They also introduced a sanction whereby the mineral permission would be automatically suspended if the information was not provided in accordance with the timetable and work would have to cease. The Regulations allow the suspension to be lifted if the required information is subsequently supplied.
9. Guidance, which accompanied the 2008 Regulations, states that if an automatic suspension continues for two years and the required environmental information has not yet been provided, the MPA is under a duty to make a prohibition order. However the relevant Regulation, which amends paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, does not reflect this absolute duty.
10. Para. 3 of Schedule 9 of the Town and Country Planning Act 1990, as amended by the 2008 Regulations, provides:

“(1) Where it appears to the mineral planning authority—
(a) that development of land—
(i) consisting of the winning and working of minerals; or
(ii) involving the depositing of mineral waste,
has occurred; but
(b) the winning and working or depositing has permanently ceased,
the mineral planning authority—
(i) must by order prohibit the resumption of the winning and working or the depositing;
and
(ii) may in the order impose, in relation to the site, any such requirement as is specified

in sub-paragraph (3) [eg restoration conditions].

(2) The mineral planning authority may assume that the winning and working or the depositing has permanently ceased only when—

(a) no winning and working or depositing [for which permission is not suspended] has occurred, to any substantial extent, at the site for a period of at least two years; and

(b) it appears to the mineral planning authority, on the evidence available to them at the time when they make the order, that resumption of the winning and working or the depositing [for which permission is not suspended] to any substantial extent at the site is unlikely”.

11. Paragraph 3(1)(b), unlike the Guidance, makes it clear that, before the duty to make a prohibition order arises, it must appear to the MPA that mineral working has “permanently ceased”.
12. Officers approached the Department for Communities and Local Government (CLG), drawing attention to the apparent inconsistency between the legislation and the guidance. The Authority’s interpretation of the amended paragraph 3 of Schedule 9 is set out in the Draft Statement of Facts and Grounds, dated February 2013. These were drafted in anticipation of court proceedings to establish the proper interpretation of the relevant part of the Regulations.
13. The initial response from the Treasury Solicitor, representing the Secretary of State for CLG, was that “the wording and effect of the Regulations is clear and is as described in the relevant guidance.”
14. Following further correspondence, the Treasury Solicitor changed his mind and now agrees with the Authority’s construction of the Regulations, set out in the Statement of Grounds. He stated in a letter dated 25 March 2013 that “it must appear to a MPA that winning, working or depositing have permanently ceased before it is under a duty to make a prohibition order.”
15. The Treasury Solicitor went on to say: “However, in our view there are unlikely to be many cases in which, after 2 years’ suspension an MPA would be acting rationally in not finding or assuming that working has permanently ceased. For this reason, we consider that any perceived disparity between the 2008 Guidance ... and the 2008 Regulations would be minimal.”
16. Whilst the final interpretation of the Regulations is ultimately a matter of law for the courts to determine, for present purposes - where a mineral planning permission has been in automatic suspension for a period of two years or more - officers consider it would be appropriate to follow the view now expressed on behalf of CLG, and consider whether work has “permanently ceased”. If it has, the duty to make a prohibition order arises.
17. The Authority must take account of all relevant factors and evidence when assessing whether work has “permanently ceased”.
18. The fact the mineral permission has been automatically suspended for two years is not, on its own, sufficient to conclude that work has permanently ceased but it is a factor that should be taken into account.
19. Where a mineral permission has been in automatic suspension for two years, paragraph 3(2)(a) of Schedule 9 of the 1990 Act, above, will be satisfied in that “no winning and working... has occurred, to any substantial extent, at the site for a period of at least two years.”

20. To satisfy paragraph 3(2)(b), when assessing whether or not the resumption of working at the site is "unlikely", MPG14 paragraph 122 indicates the MPA must "take account of all considerations material to that decision" which "would include the quality and quantity of workable mineral and whether there is a real and genuine intention to work the site". In addition to these factors, MPG4 paragraph 15 indicates the MPA should also "weigh evidence supplied by the operators/owners on the pattern and programme of their operations, including forecasts of trends in production and markets for their products".
21. These MPGs were drafted to give guidance to MPAs when exercising their *discretionary* power to make a prohibition order under paragraph 3 of Schedule 9. However, as paragraph 3(2) of Schedule 9 applies equally to cases where an MPA has a (qualified) duty to make a prohibition order under the EIA Regulations, the guidance they offer would apply to these cases too, including the Longstone Edge East permission.
22. A prohibition order can only take effect if confirmed by the Secretary of State (CLG). He will wish to satisfy himself the order is justified by taking account of all material considerations, including representations made to him by anyone affected by the order. Where an order is made when a permission has been automatically suspended for two years for lack of sufficient environmental information, the relevant Guidance indicates that the Secretary of State will take into account (a) whether there is a "reasonable excuse for the continuing delay in providing the necessary information" and (although not relevant here) (b) whether an operator who has provided all the information that could reasonably be requested of him would be affected by the order (see paragraph 3.67 of the Guidance). If the answer to either of these questions is positive, the order would not be confirmed.
23. Criterion (a) is hard to reconcile with the view of the Secretary of State, expressed in the Treasury Solicitor's letter dated 25 March 2013 (set out above), but the key consideration, on the basis of the statutory test, remains whether winning and working of minerals at the site has "permanently ceased".

Planning Assessment

Background documentation referred to below has been made available to Planning Committee prior to the meeting in the form of a file of documents informing officers' consideration. The documents have also been made available to the public on the Authority's website.

24. The planning permission for Deep Rake, Hassop (Longstone Edge East) was granted in 1952. The permission 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 these minerals from that area. The permission originally covered around 155 hectares.
25. The permission area was reduced in 2004 by the revocation of part of the 1952 permission and other old mineral permissions within the Longstone Edge ROMP area which were subject to a consolidating permission for vein mineral working, sought by Glebe Mines Ltd. The remainder of the 1952 permission area amounts to 138ha and it is this area, now referred to as Longstone Edge East, which is subject to the stalled ROMP.
26. Ownership details for Longstone Edge East are shown on the attached plan. Bleaklow Industries Ltd (Bleaklow) owns the freehold land and owns the mineral rights south of Bramley Lane. British Fluorspar Limited (BFL), who acquired the interests formerly held by Glebe Mines Ltd (Glebe), owns the vein mineral rights, and the limestone disturbed, to the north of Bramley Lane and a limited area to the south of Bramley Lane. The surface and mineral rights of a small area to the west of Backdale is owned by the

Bolland family, who have previously indicated no intention to win and work those minerals.

27. In order to assess whether permanent cessation has taken place the Authority must take account of all considerations which are 'material' to that decision.
28. In this case, account has been taken of information on the Authority's files and information provided by parties with an interest in the mineral rights, through the ROMP process, in planning applications and in the course of the legal cases relating to the site.
29. The Authority has previously employed geotechnical specialists Geoffrey Walton Partnership (GWP) to assess the working methods, stability and geological reserves within the Longstone Edge East permission area.
30. The remainder of this section of this report is divided into 3 parts:
 - A summary of planning applications relevant to this case;
 - A summary of the consideration of the ROMP scheme since 1997;
 - A consideration of the tests specified by MPGs relevant to the assessment of whether work has "permanently ceased".

Planning Applications

31. The most relevant planning history of Longstone Edge is summarised in Appendix 1 to this report. The main points of that history are as follows.
 - A consolidating application by Glebe in 2001 stated that it was being submitted to establish an updated scheme of working for the total vein mineral future of Glebe Mines on Longstone Edge and made no reference to working its minerals interests in the eastern end of Longstone Edge.
 - In an application in 2003 for fluorspar extraction at Winstar, Glebe offered to relinquish the rights in the 1952 Longstone Edge permission to work the vein mineral, and other mineral (limestone) disturbed, within its entire mineral interest area (105ha) of Longstone Edge East. The Winstar permission was implemented in 2004 following the signing of a Section 106 Agreement. The permission was the subject of a legal challenge by Bleaklow. The High Court upheld the challenge, quashed the S106 with immediate effect and allowed working to continue for a further 6 months from the 29 November 2006.
 - In an application in 2008 for fluorspar extraction at Tearsall, Glebe, which had recently been acquired by Ineos, offered not to exercise its rights to extract minerals (vein minerals and limestone disturbed) from the Peak Pasture area contained within Longstone Edge East for a period of 4 years from the granting of the Tearsall planning application.

The ROMP Scheme

32. An application for determination of conditions under Schedule 13 of the Environment Act 1995 (a ROMP application), which included the review of the old mineral permission originally granted in 1952, was submitted in March 1997. RMC Roadstone Ltd – Eastern (RMC) was the applicant named on the application form and it was signed by their agent. The application included a submission for working which was made jointly with Laporte Minerals. Laportes provided details for working in the western end and some working in part of the eastern end of the permission area, whilst RMC provided details of working in the eastern end in the Backdale and Peak Pasture areas.
33. No Environmental Statement was provided with the application since at that time the mineral review Regulations did not require one to be submitted. Subsequently, case law held that ROMP applications should be accompanied by an Environmental

Statement where the development had a significant impact on the environment. In view of this, the Authority asked the applicant for an Environmental Statement but RMC declined to provide one.

34. On the basis of legal advice, the Authority determined the application without an Environmental Statement in order to avoid a deemed approval of the scheme provided in the application. The determination included a curtailment of the extent of working that could take place at Peak Pasture based on the Authority's interpretation of what mineral working the 1952 permission allowed. Bleaklow, the freehold owner of the majority of the land subject to the ROMP application, did not like the determination but were uncertain whether RMC would appeal it because the company had decided to withdraw from working at the site. As Bleaklow was not the ROMP applicant, its only avenue for challenge was through judicial review proceedings in the High Court, on the ground that no Environmental Assessment had been considered. Bleaklow's challenge was successful, the Authority's determination was quashed and the matter remitted back to the Authority to be re-determined.
35. RMC, the named ROMP applicant, did not provide any environmental information and ceased working at the site in 1998. Some environmental information was submitted on behalf of Bleaklow in July 2000, but the Authority declined to accept the information as a formal submission because Bleaklow was not the ROMP applicant. The Authority could not re-determine the application until the information was received and the application became what is known as a stalled ROMP application.
36. On 2 July 2003 the Authority received notice from RMC stating: "Bleaklow and their advisors are pursuing the [ROMP] application acting as agent for RMC The application is therefore moving forward in the RMC name with this Company's authority although RMC have declared that it will not operate the quarry if successful and it no longer has any legal interest in the site.further questions related to the application should therefore be directed at Bleaklow."
37. A new mineral operator started extracting limestone from Backdale in July 2003 and later at Wagers Flat, both areas lying within the area covered by the ROMP application. The Authority considered that the 1952 planning permission did not allow for the extraction of limestone as the primary purpose of operations. The Authority took initial enforcement action in 2004, and between then and 2009 Bleaklow and the Authority were involved in planning enforcement appeals through public inquiries and the courts.
38. In August 2008 the EIA Regulations were revised with the purpose of ensuring that ROMP applications which were stalled for lack of environmental information could be determined. The Authority sent a notice to Bleaklow, being both a landowner and the agent for the ROMP applicant, requiring the submission of additional information to enable the Authority to carry out a screening opinion. A copy was also sent to Glebe because of its mineral interests in the land. Extensions of time in which to provide the information were agreed by the Authority, pending resolution of Bleaklow's legal challenges which followed the Authority's enforcement action against the unauthorised winning and working of limestone at Backdale. Bleaklow's challenge was eventually unsuccessful.
39. The Authority set 31 October 2010 as the final deadline for submitting the information required to carry out a screening opinion. Bleaklow failed to provide any of the required information by that deadline, nor since. On the 29 October 2010, some information was submitted to the Authority by Glebe. This information was insufficient for EIA purposes, but in any event, Glebe was neither the named ROMP applicant, nor its agent, and the Authority has always advised that it did not consider Glebe is entitled to pursue the application.

40. In December 2010 solicitors acting for Glebe wrote to the Authority giving reasons why their client should be treated as the applicant for the ROMP application. They referred to Paragraph 3(13) of the guidance which says that where an original applicant has been superseded, the operator which succeeds them can take the ROMP application forward to determination. Glebe was the successor to Laportes who were not the named applicant, therefore they were not considered by the Authority to be able to take the ROMP forward as an applicant. The Authority's Head of Law responded in a letter dated 6 January 2011 setting out the Authority's position, including what evidence was considered necessary to enable the Authority to treat Glebe as the ROMP applicant. No response was received and neither did Glebe provide any additional environmental and other information.
41. Since all the necessary information required to carry out a screening opinion was not provided, the permission went into automatic suspension on 1 November 2010.
42. The period of automatic suspension could only be lifted once the Authority received all the environmental and other information it considered to be sufficient to enable the ROMP submission to be determined.
43. In 2012 Glebe sold its mineral rights, including those in the eastern end of Longstone Edge, to British Fluorspar Limited (BFL). Officers have had discussions with BFL representatives, who were aware that the permission has been suspended but they did not express any intention to work there. No environmental and other information dealing with the ROMP was forthcoming from BFL. However, in a letter dated 17 September 2013, BFL wrote:
*"...it is considered that it would be inappropriate for the Authority to seek a prohibition order on the land controlled by BFL as it has been clearly demonstrated that there has been an intention to win and work minerals in the Longstone Edge East area under its control.
"It should be noted that the Peak Pasture land is still considered a potentially valuable mineral reserve by BFL and at this period in time it is regarded as an area that will be worked at some point in the future."*

In view of past correspondence, officers consider, until BFL provides evidence to the contrary, that the applicant for the site is RMC and that only Bleaklow is entitled to handle the ROMP application as its agent.

Recent developments

44. Discussions were held in December 2011 with Coverland UK Ltd about possible alternative future uses for the site. Coverland was made aware that the minerals permission was suspended and of the requirement to submit environmental information.
45. In March 2012, Coverland UK Ltd completed the purchase of Bleaklow, and its assets, including the land that it owned which was subject to the 1952 permission. The name Bleaklow Industries Ltd was retained.
46. Further meetings were held with Bleaklow's new representatives. The implications of the permission being in automatic suspension and the prospect of a Prohibition Order were discussed. The impression gained by officers was that the owner was not interested in further mineral extraction at Longstone Edge.
47. Correspondence was sent to Bleaklow's representative on the 20th February 2012 reminding the company that the mineral permission was in automatic suspension and that, if the required information was not submitted by 31 October 2012, the Authority had a duty under the Regulations to consider making a prohibition order. No formal

alternative proposals have been received and no information has been submitted to enable the Authority to make a screening opinion.

48. Bleaklow's representative wrote to the Authority in letters dated 5 September 2012 and 11 June 2013. The first letter sets out that the owner is considering a number of potential options. In relation to mineral working it states:
'...we do not see any immediate benefit in Coverland UK Ltd attempting to de-stall the ROMP. At the same time we cannot discount the potential for some mineral recovery and do not see that formal proceedings to prohibit future mineral working is an appropriate way forward in such circumstances where other options may secure better sustainable outcomes in a cost effective manner and also have the potential to bring some closure on the question of future mineral operations.'
49. The letter goes on to outline proposals to use: Backdale for employment uses; material from Wagers Flat at Backdale; material from Backdale for restoration at Wagers Flat; and the development of a holiday lodge park at Red Rake (Calver Park).
50. The development of holiday lodges at Red Rake and employment uses at Backdale are broadly contrary to the adopted Peak District Development Plan. It appears that the owner is hoping to use the voluntary revocation or exchange of the mineral permission, and restoration of the site, as material considerations in applying for development which would not otherwise be acceptable.
51. There have been subsequent discussions with Bleaklow's representative about possible alternative future uses of the site for cycling related development. These proposals were at a very initial stage. They may have some merit depending on the specific nature and scale of the proposals. However, it is not yet clear which proposals might be pursued, and in any case any proposals forthcoming should be judged on their own merits
52. The Guidance suggests at paragraph 3.11 that where applicants are intending to consolidate or agree exchanges of areas for mineral working they may be unwilling to provide the information to progress a ROMP as it might be unnecessary. In these circumstances paragraph 3.13 indicates the MPA may extend the period for submission of information where there is a clear and limited timescale for a decision and no environmental harm will result. However, this is not applicable in this case as the landowner is not seeking alternative mineral development and, furthermore, a decision is unlikely in the short term as no proposal has been put forward.
53. A delay in providing environmental information for the purpose of keeping a mineral permission extant in order that it could be traded to facilitate non-minerals development which is contrary to the Peak District National Park Development Plan would not be in line with the circumstances set out in the Guidance. The Secretary of State would have to consider whether there was a reasonable excuse for the continuing delay in providing that information.

Relevant Tests

54. As explained earlier in this report, in order to **assess** whether permanent cessation has occurred the Authority must take account of all considerations material to that decision. These include: the quality and quantity of workable mineral; whether there is a real and genuine intention to work the site; and evidence supplied by the operators/owners on the pattern and programme of their operations, including forecasts of trends in production and markets for their products. These considerations are covered in detail below.
55. But the key consideration is whether it "appears" to the Authority that minerals operations have "permanently ceased". The relevance of matters such as any

expression of intention to resume working is therefore limited, especially in the context of a situation where adequate environmental information has not been submitted as required by the Regulations. What is significant is the available evidence assessed against the key consideration of whether operations have permanently ceased.

A) Quality and Quantity of Workable Mineral

56. In the case of Longstone Edge East, some information as to quality and quantity of minerals has been provided through the ROMP process, in planning applications submitted over a number of years, and in the course of the litigation which followed the enforcement action that was taken.
57. In addition to the relevant information on workable mineral that is recorded under the heading 'Planning Applications' above, the following information has also been provided.
58. In 1951 a planning application sought permission to extract fluorspar and barytes from the Deep Rake, shown in the light and dark shaded section of the attached maps. The applicant was extracting about 5,000 tons of fluorspar gravel, 300 tons of fluorspar lump block and 210 tons of barytes annually. There was no mention of the total tonnage of fluorspar or barytes resource available to be extracted. The 1952 permission did not provide any details of the extent of the vein structures and the mineral resource contained within the permitted area.
59. In 1997 the initial ROMP application for Longstone Edge, which included the 1952 planning permission covering the eastern end of Longstone Edge (Deep Rake, Hassop), was submitted. The programme included an extensive working area to the north of Bramley Lane. Some exploration information was eventually provided. This exploratory information consisted of trial trenching carried out by Laportes along certain known vein structures containing vein mineralisation.
60. The Authority approached the geo-technical consultant B L Hodge and Partners to seek their advice on the quality and quantity of vein mineral that is likely to be present in the permission area. Based on his past knowledge and available information Brian Hodge advised that it was impossible to quantify the amount of vein mineral remaining because of the inadequacy of the available information. He advised that proposed working would yield a certain amount of vein mineral (fluorspar) but there was no doubt that the quantity would be insignificant in relation to the 12mt of limestone proposed to be quarried. He also advised that the Dog Rake, Catlow Rake and Gospel Rake had been extensively worked for fluorspar either below or close to the quarry extension floor level. In addition, the whole or sections of Dog Rake, Catlow Rake, Cam Rake, Gospel Rake and some other branches were situated within the quarry extension walls, so they would not be fully worked, even if there was any useful vein mineral left in them to exploit.
61. Public inquiries were held in 2006 and 2007 to consider the appeals lodged by Bleaklow against the enforcement notice served by the Authority alleging the winning and working of limestone beyond the scope of the 1952 planning permission. Evidence was submitted by Kevin Walton a Geotechnical Engineer and Geologist, who made an assessment of the Peak Pasture area based on the trail trenching undertaken by Laportes. At the Inquiry Mr Walton agreed that a 10% reduction should be made to allow for the effect of past underground mining, giving a reserve net figure of 160,000 tonnes (compared to the 177,200 tonne figure he previously gave). The inspector upheld the enforcement notice, but an appeal against the Inspector's decision was lodged. The High Court subsequently allowed the appeal on the basis that as much limestone as necessary could be removed to gain access to the vein mineral. The Court of Appeal subsequently overturned the High Court ruling and upheld the inspector's

- decision leaving the enforcement notice in place.
62. The 2008 planning application for fluorspar extraction at Tearsall made by Glebe stated that the inferred resource for the mineralisation in 4 vein structures present at Peak Pasture (excluding Deep Rake and Red Rake) was 400,000 tonnes. This 'inferred resource' is the resource of vein mineral predicted to be available as inferred by trial pits dug in 1996 and projecting this information to assume deposits extend to 50m depth. The inferred resource uses a cut-off grade of 16%CaF₂ (calcium fluoride) and assumes 15% loss due to old mine workings. The resulting figure is then doubled on the basis that there is, in Glebe's view, always more fluorspar than their estimates show. The result of this is an inferred resource figure of 360,000t of fluorspar ore.
63. The Authority had the information provided by Glebe at this time assessed by GWP. GWP consider that the inferred resource is 'highly speculative' and they can see no justification on the information available to double the resource. They add that the use of the 16%CaF₂ leads to 'considerably larger figures'. GWP assess that the probable reserve (which is a figure reached by only including mineral at a depth proven by the trial pits of around 3m), is 14,262 tonnes at 16%CaF₂. GWP consider that on the basis of the BGS geological maps, further resources of fluorspar are likely to exist outside of Peak Pasture in the 1952 permission area, though this is not sampled. They state that a 'very rough estimate' indicates a possible resource of 300,000t of 16%CaF₂.
64. It is concluded in GWP's assessment that "It is certain that there is some fluorspar available in the remainder of the Longstone Edge 1952 planning consent area...reliable evidence exists for only some 14,000t of 16%CaF₂ grade ore. It is probable that more than this exists, but we would be very surprised if the amount was as much as 500,000t."
65. In 2010 Glebe submitted information in relation to the ROMP scheme in which they proposed to extract 2.9 million tonnes of vein mineral and 5.9 million tonnes of limestone from the Peak Pasture area. The information contained in the letter from Glebe was signed by Clint White, who in 2003 had provided a statement to the Courts on behalf of Glebe, stating that there was no evidence to support any significant vein mineral reserves in the area.
66. It is considered that in order to progress the ROMP the Authority would need to receive geological information sufficient to demonstrate a 'probable reserve' which is the economically mineable part of an 'indicated mineral resource'. An 'indicated mineral resource' is that part of a mineral resource for which tonnage, densities, shape and physical characteristics, grade and mineral content can be estimated with a reasonable level of confidence. It is based on exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes, which are too widely or inappropriately spaced to confirm geological continuity and/or grade continuity, but are spaced closely enough for continuity to be assumed. GWP have advised that the following should be provided:
- Angled boreholes, at least 2 per vein.
 - Deep mining records
 - Surface mining records

Despite this information being requested by the Authority, none of it has been provided.

67. No information on the quality and quantity of workable mineral has been provided by either Bleaklow or BFL. Glebe did provide some information with its 2008 planning application for Tearsall Quarry, which was assessed by GWP, who considered the inferred resource was highly speculative. It was also inconsistent with previous submissions made by the company and with the Authority's expert geo-technical advisor's reports. Further information was provided by Glebe in relation to the ROMP

submission in October 2010. It is evident from the information provided that Glebe did not carry out any further mineral exploration works, contrary to the advice received from GWP in connection with the appraisal of the 2008 Tearsall application data, but remained reliant on the information available and used in connection with the 2008 Tearsall application. Glebe also revised the CaF₂ figure from 16% to 10% meaning that the estimated quantity of vein mineral has significantly increased further to 2.9mt and the amount of limestone that could be removed as a consequence was identified as 5.9mt. Therefore, officers consider that GWP's comments provided in connection with the 2008 Tearsall application remain applicable in that there is reliable evidence for only limited quantities of proven ore of fairly low quality grade, namely 14,000 tonnes of 16% CaF₂ grade ore in the Peak Pasture area.

68. On this basis, officers place greater weight on the evidence of the Authority's geo-technical expert who identified limited quantities of proven ore of fairly low quality grade.
69. As the relevant information requested through the ROMP process has not been provided, there is insufficient information about the quality and quantity of mineral remaining on site to be able to conclude that mineral working is likely to resume.

B) Forecasts of trends in production and markets for their products

70. The British Geological Survey document about Fluorspar published in February 2010, considered that the permitted reserve estimates of fluorspar within the National Park were 1,215,000 tonnes of ore accessible by open pit working and 3,000,000 tonnes from underground mines, as at October 2009. Only open pit working was taking place at around this time which would have provided around 3 years production based on 420kt annual processing of ore contained within the 2008 Tearsall application.
71. Current Core Strategy policy supports the underground mining of fluorspar but not opencast working of fluorspar.
72. MPG4 paragraph 15 indicates that the onus is on the operator to supply the information about forecasts of trends and markets. Coverland, the owner of Bleaklow who acts as agent in the ROMP application, is not involved in the winning and working or processing of vein minerals and no recent information about the markets for vein minerals or the trends in production has been provided.
73. The BGS publication on Fluorspar issued in 2011 identified that following a long history of extraction many of the major veins have been depleted as sources of open pit fluorspar in Britain. In December 2010, Glebe Mines Ltd announced that it would cease mining and processing within the Peak District by the end of 2010 due to failure to secure sufficient funding for the plant, thus ending fluorspar production in the UK. Before its closure Glebe Mines was working towards re-opening Milldam Mine where the bulk of the reserves is located and which is permitted until the end of 2013. The sole consumer of acid grade fluorspar at the time was the fluoro-chemical manufacturing facility at Runcorn, operated by Mexichem who now sources fluorspar from abroad. In 2009 there was a rapid decrease in prices in fluorspar due to weakening demand for the fluoro-chemical sector. During 2010, fluorspar prices in all grades remained nearly constant.
74. The Minerals Industry publication of October 2012 contained an article on Fluorspar referring to the renewed output following the acquisition of Glebe Mines assets by British Fluorspar Limited on 18 May 2012. British Fluorspar had plans to re-start production in early 2013 with a minimum acidspar output target of 50,000 tonnes. The UK acidspar requirements are currently being completely fulfilled by imports from Mexico. A total of 33,000 tonnes were imported in 2011. No information was available on current production. The publication says that worldwide there is expected to be no

long term shortage of supply of fluorspar.

75. The likelihood is that UK production will gradually increase as BFL establishes winning and working of fluorspar ore, although this is dependent on the financial cost of extraction, the quality of the fluorspar ore and world market prices.

C) Real and genuine intention to work the site

76. As the vein mineral rights within the site are held by three different entities, the intentions of each must be considered separately.
77. The Bolland family made an incomplete ROMP submission in 1997 which was invalid. As stated earlier in this report, there is no intention to win and work the minerals in this area.
78. With respect to the area owned by Bleaklow, during the last 15 years the company, under its previous owner, concentrated on asserting that the 1952 planning permission allowed the extraction of limestone. In August 2009, when it was finally legally resolved that there were limits on the amount of limestone that could be removed and sold in the course of winning and working the fluorspar and barytes under the permission, Bleaklow, and its lessee operator at the time, ceased mineral working at the site.
79. Subsequently, there has been no working of mineral for a period of four years, and no environmental and other information, required under the regulations to progress the ROMP, has been provided for that part of the site.
80. Following the purchase of the site in 2012, the new owner's focus has been to suggest non-minerals proposals as an alternative for the site. To date, no firm proposals have been submitted.
81. With respect to the area within the 1952 permission where BFL's mineral interests lie, no working has taken place since the late 1980's, when working took place by the then Bleaklow Mining Co Ltd within some of the veins (part of Catlow Rake, Dog Rake and Red Rake) in the Peak Pasture area..
82. By the late 1980's Laportes had ceased opencast working in the eastern end of Longstone Edge and were carrying out restoration works. Underground working was continuing to take place using the access from Sallet Hole adit entrance into Deep Rake, heading westwards for extraction within High Rake and Bow Rake at the western end of Longstone Edge. The plans submitted in the ROMP also showed that Laportes was proposing to work only two limited areas in Longstone Edge East, namely Unwin Vein and the western end of Red Rake. Laportes did not undertake any working in these areas between 1997 and 1999.
83. Laportes' interest was acquired by Glebe Mines in 1999. No working was undertaken by Glebe in the areas identified in Red Rake or Unwin Vein between 1999 and 2012. Glebe did not undertake any working in the Peak Pasture area identified in the ROMP submission. In fact Glebe submitted the 2000 consolidating application to focus all future working within the western end of Longstone Edge rather than the eastern end. At the time Glebe representatives considered there was no evidence to support any significant vein mineral reserves in the area.
84. Officers are of the opinion that Glebe and BFL are not entitled to pursue the ROMP in their own right. Irrespective of this opinion, the information that was provided for the area where BFL has mineral interests is insufficient. Information was provided before and shortly after the site went into suspension but no additional environmental information has been submitted since December 2010.

85. Since BFL acquired the site in 2012, a number of meetings have been held with officers and representatives of the company. At no stage did BFL express an interest in mineral working on the land at Longstone Edge East. However, in a letter dated 17 September 2013, written after the company became aware of the Authority's current considerations on future working at the site, BFL refers to the terms of a S106 Agreement, signed in June 2010, in which mineral working at Longstone Edge was temporarily relinquished in exchange for working at Tearsall Quarry. BFL considers this indicates "the Authority recognised Glebe's right to work their portion of Longstone Edge East" and informs the Authority that the "Peak Pasture land is still considered a potentially valuable mineral reserve by BFL and at this period in time it is regarded as an area that will be worked at some point in the future."
86. Officers do not consider that this statement is sufficient, on its own, to indicate a real and genuine intention to resume working for the purposes of this legislation. The purpose of the S106 agreement linked with the Tearsall permission was to allow time to enable the stalled mineral review process to be concluded and/or to pursue a permanent solution to the threat of mineral working in the 1952 permission area. Based on available evidence and the advice of the geotechnical consultant GWP, officers maintain the view that there is no substantive quantity and quality of vein mineral (fluorspar) remaining in the eastern end of Longstone Edge.

Summary of factors in the assessment of whether work has permanently ceased at Longstone Edge East

87. When a planning permission has been automatically suspended under the Regulations for more than two years, it is unlikely that a stated intention to work the site at some point in the future would be sufficient, in the absence of other evidence, to amount to a real and genuine intention to work the site for the purposes of the legislation. Therefore other factors set out in this section have to be taken into account
88. Factors in favour of concluding that work has permanently ceased:
- Bleaklow, became the agents in 2003 and has failed to progress the stalled ROMP, and did not provide any updated environmental or other information within the specified periods despite reminder letters, even when there was a risk that a prohibition order could be made.
 - The new owners of Bleaklow and their agents have provided correspondence within which they indicate that they do not intend to de-activate the stalled ROMP.
 - Notwithstanding our view, subject to evidence to the contrary, that BFL is not entitled to pursue the ROMP, no updated environmental or other information has been provided to engage in progressing the stalled ROMP.
 - The areas known as Backdale and Wagers have not been active since 2009 and 2007 respectively, prior to which work focused on limestone extraction rather than fluorspar extraction based on Bleaklow's interpretation of the 1952 permission.
 - No opencast working of vein mineral (fluorspar) has taken place within the remaining extensive area (the 105 ha of land in which BFL own the vein mineral mineral rights and the limestone disturbed) at the eastern end of Longstone Edge since 1989.

Generally the vein structures in the eastern end of Longstone Edge are relatively small in scale and have been extensively worked in the past, leaving limited quantities of vein mineral (fluorspar) that are of sufficient quality to be economically viable to work.

89. Factors against concluding that working has permanently ceased:

- Notwithstanding our view, subject to evidence to the contrary, that Glebe is not entitled to pursue the ROMP, Glebe submitted some information to progress the ROMP indicating that there is an inferred resource of mineralisation in the Peak Pasture area.
- Notwithstanding our view, subject to evidence to the contrary, that BFL is not entitled to pursue the ROMP, BFL considers that in pursuing the Tearsall S106 agreement the Authority recognised that the Peak Pasture area is still considered a potential viable mineral reserve and the area will be worked in the future.
- The market for fluorspar is gradually increasing following the re-commencement of extraction and processing of fluorspar by BFL, following the purchase of Glebe's interest in 2012 and the commencement of acidspar production in 2013.

Overall Conclusion

90. Taking account of the considerations both in favour and against concluding whether work has permanently ceased, officers consider, on balance that work has permanently ceased at Longstone Edge East and a duty to make a prohibition order arises under paragraph 3 of schedule 9 of the Town and Country Planning Act as amended by the 1999 EIA Regulations.
91. The accompanying Part B report sets out information of legal and financial privilege which the Committee will now need to consider before a resolution is made.

Correspondence on the matters contained in this report

92. Correspondence from parties likely to be affected by the proposals is attached in Appendix 2. Correspondence from third parties is contained in the file of documents made available to Planning Committee and on the Authority's website.

Human Rights

93. Fundamental Human Rights are always in the minds of officers and members. The making of a prohibition order would interfere with the Article 1 and Protocol 1 rights of the parties affected by the order, but would be a justified and proportionate means of achieving the legitimate aim of planning in the public interest.

Sustainability

94. Taking action to use the 1999 Regulations, as amended by the 2008 Regulations, to bring the stalled review of the 1952 planning permission to an environmentally appropriate conclusion will contribute towards the general principles of sustainability.

95. List of Background Papers

Documents to be taken into account in assessing whether work has permanently ceased are available at <http://www.peakdistrict.gov.uk/deeprakedocuments>

96. Appendices

Appendix 1: Planning History

Appendix 2: Correspondence from affected parties

Report Authors

John Lomas, Clare Palmer, David Bent, Jane Newman

Appendix 1: Planning History

In 2001 Glebe submitted an application for a consolidating planning permission to continue the extraction of vein mineralisation together with the crushing and sale of limited quantities of limestone on the western end of Longstone Edge. The application included the surrender of a number of planning permissions at the western end, a small part of the 1952 planning permission, the variation of conditions and a small extension area. The statement accompanying the application stated that the "Consolidating Application is being submitted to establish an updated scheme of working for the total vein mineral future of Glebe Mines on Longstone Edge." This working scheme did not include any reference to Glebe's other mineral interests in the eastern end of Longstone Edge.

Two further applications have been made by Glebe with respect to other mineral sites within the National Park, both of which proposed to exchange the rights to work the vein minerals and the limestone associated with it in the Longstone Edge East area.

A planning application was submitted in 2003 by Glebe for fluorspar extraction at Winster. Glebe offered to relinquish the rights to work the vein mineral and other mineral (limestone) disturbed within the Peak Pasture area of the 1952 permission. This was a significant material consideration in granting planning permission to work 375,000 tonnes of vein mineral at Winster. This decision was subsequently the subject of a judicial review by Bleaklow. A statement produced by Clint White of Glebe for the legal proceedings, stated that Laporte Minerals had undertaken exploratory works on Peak Pasture and reviewed its historical production data from the area. Laporte Minerals found that there was no evidence to support any significant vein mineral reserves (fluorspar). The second defendant in the proceedings (Glebe) was an expert in its field and agreed with this view. Consistent with Glebe's policy of not pursuing mineral extraction activities on areas of land where there is unlikely to be viable fluorspar veins, pursuant to the section 106 agreement, the company covenanted that it would not seek to allow its mineral rights in Peak Pasture to be disturbed. The Judge upheld the challenge which included the grounds that the decision to permit development was inequitable on the grounds that permission had been granted to extract 375,000 tonnes of fluorspar and associated vein mineralisation at Winster when there were *'unlikely to be economically viable fluorspar reserves'* at Longstone Edge.

In 2008 a planning application was submitted for fluorspar extraction at Tearsall. Glebe offered a temporary moratorium on working the vein mineral and other mineral (limestone) disturbed within the Peak Pasture area of the 1952 permission. As part of this proposal, Glebe stated that the inferred resource for the mineralisation in 4 vein structures present at Peak Pasture (excluding Deep Rake and Red Rake) was 400,000 tonnes. The moratorium was considered a significant material consideration and the proposal was granted permission as an exception to policy. Under the terms of a Section 106 agreement which was drawn up when planning permission was granted at Tearsall Quarry, working cannot commence in the area referred to as Peak Pasture until at least June 2014, or whilst working continues to take place at Tearsall Quarry. This is irrespective of the fact the 1952 permission is suspended under the 1999 Regulations.

Newman Jane

From: Lomas John
Sent: 24 October 2013 10:31
To: Bent David; Newman Jane; Palmer Clare
Subject: FW: Coverland Ltd - Backdale Quarry and Wagers Flat

From Coverland's agent in response to my reminder.
 John

From: Simon Heaton [mailto:simon.heaton@coverland.co.uk]
Sent: 24 October 2013 10:25
To: Lomas John
Cc: peter.hunt@coverland.co.uk; 'Andrew Daly'; 'John Church'
Subject: RE: Coverland Ltd - Backdale Quarry and Wagers Flat

Dear John

My apologies for the delay in responding, although, in truth, I don't think we have much to say at the moment.

Your letter of 3rd September made clear that you were still wrestling with your combined considerations as to whether winning and working of minerals had permanently ceased and whether you have a duty to make a prohibition order. Obviously we have already expressed in writing our views on those matters (as well as outlining them at our last meeting) and are conscious that, as per your letter, we can only properly understand the Council's position once you have reported to the Committee and they have made their decision.

As we had already tabled a series of proposals to you for Wagers Flat and Backdale Quarry and indicated the reclamation/restoration aspects of these schemes we did not really see any merit in having a further meeting in advance of your committee.

I would though point out that your letter indicates that if the Council was to make a Prohibition Order it would need to include a restoration scheme. My client wishes me to re-iterate our view that, in practical terms, this is one of the main considerations and their proposals have the planning benefit of delivering some reclamation/restoration without the need to burden the public purse through the making of an order and assembling an associated restoration scheme. My client's proposals are based on practical/viability/deliverability considerations, which I am sure you will agree the NPPF places great emphasis upon.

We would be most grateful if you and your colleagues, in reporting to the Planning Committee, can make clear that the proposals outlined in your letter have been tabled and we wish the members to be aware that we see the submission and determination of these schemes as a more practical and beneficial way of contributing to the resolution of some long standing issues as opposed to the costs and time delays of pursuing formal prohibition.

In the meantime we are grateful for your advice concerning the potential for greater transparency in the reporting and public involvement in the Committee Meeting on this matter. In this regard, it would be most helpful if you could let us know when your non-confidential report becomes available and also, in due course, confirmation that the item is definitely on the agenda for 15th November Committee.

Best regards.

Yours sincerely

Simon

Simon Heaton

28

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17 September 2013

Mr John Lomas
Peak District National Park Authority
Aldern House
Baslow Road
Bakewell
Derbyshire DE45 1AE

Dear John

LONGSTONE EDGE EAST, REVIEW OF OLD MINERAL PERMISSION

Further to your email of 6 September 2013 regarding the above matter, I thought it may be of some assistance if I summarised the British Fluorspar Ltd (BFL) position regarding this issue prior to your report to committee on Friday 11 October.

Longstone Edge East is the 1952 ministerial permission covering Bockdale, Weger's Flat and Peak Pasture although part of the original consent, the active open cast workings on Longstone Edge are subject to a separate, modern planning permission. The Longstone Edge East area is held within a number of different land ownerships with BFL as successor in title to Globe Mines Ltd, retaining the interest in the minerals north of Bramley Lane and in the area known as Peak Pasture. These areas have never been worked but benefit from the 1952 consent as interpreted by the Court of Appeal i.e. the right to extract fluorspar, berylls and limited amounts of limestone won as a result.

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 this information is not supplied by the prescribed date then the site enters automatic suspension. In the case of Longstone Edge East this date was 31 October 2010. It is understood that Globe Mines Ltd supplied some information but this was not considered comprehensive by the Authority, nor was it agreed if Globe Mines Ltd were the applicant for the ROMP.

Longstone Edge East entered automatic suspension on 1 November 2010. In order for the Authority to serve a prohibition order the Authority must be confident that the resumption of winning and working is unlikely. Prior to Longstone Edge East entering automatic suspension the Authority 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.*

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

British Fluorspar Ltd
Registration No. 8060701
VAT No. 137729077

Longstone Edge East went into automatic suspension on 1 November 2010, that is nearly five months after Glebe Mines Ltd agreed not to work their interest for a period of at least four years. It was therefore clear to the Authority that Glebe Mines Ltd still intended to work Peak Pasture and temporarily traded these rights prior to the site entering automatic suspension.

As to the fact that Glebe Mines Ltd did not supply a full environmental statement, the terms of the Teesval B108 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 was no prospect of working Peak Pasture for a period of not less than four years would not represent economic or industry best practice.

On the basis of the above it is considered that it would be inappropriate for the Authority to seek a prohibition order on the land controlled by BFL as it has been clearly demonstrated that there has been an intention to win and work minerals in the Longstone Edge East area under its control.

It should also be noted that the Peak Pasture land is still considered a potentially valuable mineral reserve by BFL and at this period in time it is regarded as an area that will be worked at some point in the future.

I trust that the above clarifies British Fluorspar Ltd's position with regard to this matter. However, it is fully understood that this remains a complicated issue interlocked with other external interests. To this end BFL would welcome the opportunity to work with the Authority to explore any mutually beneficial opportunities. If you think there would be some benefit in meeting to discuss the matter further do not hesitate to get in contact.

Yours sincerely

PETER ROBINSON
Chairman, BFL

Heston Planning

Planning Consultants

My Ref: SCH/HPL/Coverland/2013

Your Ref:

Date: 11th June 2013

**John Lomas
Director of Land Use Policy
Peak District National Park Authority
Aldern House
Baslow Road
Bakewell
Derbyshire
DE45 1AE**

SENT BY EMAIL AND POST

Dear Mr Lomas,

**LONGSTONE EDGE
POTENTIAL PROHIBITION ORDER**

I refer to our meeting on 10th May 2013 with my client, Coverland Ltd, their Planning Consultant, John Church and your colleagues, David Bent and John Scott.

You suggested that it might be appropriate that we write to you offering our views on the correspondence between your Authority and the Treasury Solicitor in regard to the above and in the light of your forthcoming report to the Planning Committee. Our comments are therefore as follows:

Having considered the correspondence with the Treasury Solicitor it is apparent there is agreement that it must appear to a MPA that winning and working of minerals or the depositing of waste have permanently ceased before it is under a duty to make a Prohibition Order.

However, an important point that appears to emerge from the correspondence is the Treasury Solicitor's view that after 2 years of suspension an MPA would not be acting rationally in not finding or assuming that working had permanently ceased. This aspect would seem to be further emphasised by 2 interrelated points you made at the meeting:

1. The focus of your considerations is principally on Backdale and Wagers Flat areas of the Longstone Edge (LE) permission
2. That other areas of the LE permission have either been restored or regenerated - to the satisfaction of the MPA

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It therefore appears to us that the MPA is simply at the same point it was in back in September 2012 - when Coverland wrote to you – considering whether it is now expedient and in the public interest to make a Prohibition Order. In this regard the suggestions we put to you in our letter remain broadly relevant – see attached letter. A key point being a request for the Authority not to make a Prohibition Order whilst Coverland bring forward proposals that would help secure the reclamation, restoration and end-uses for those elements of the LE permission that are your main focus.

We can only surmise, based on the current circumstances and the correspondence exchange with the Treasury Solicitor, that the likely view of the MPA is that wining and working has permanently ceased in the LE permission and that the MPA is now focussed on reclamation, restoration and end-uses particularly for the Backdale and Wagers Flat areas.

Assuming this is the case we still remain firmly of the view that, in the light of the proposals tabled by Coverland at our meeting – involving their own proposals for reclamation, restoration and end-uses of Backdale and Wagers Flat – it is sensible and in the public interest not to make a Prohibition Order at this point in time whilst Coverland submit these proposals to you.

In short, we cannot see the point of expending public money on preparing an Order (with the cost of professional and technical input) when Coverland continue to pursue a practical and deliverable approach to reclamation of these areas. Rather than spending public funds and pursuing legal/formal channels, which will then potentially result in time and costs for Coverland, there is in our view real merit in allowing Coverland the opportunity to present you and your members with some practical and beneficial proposals which will include the recovery and use of certain valuable materials on site, as well as taking into account established uses (i.e. ongoing business use) that help facilitate delivery.

In this regard we would highlight proposals to restore Wager Flat, which include:

- Recovering valuable walling stone from old overburden for use on the estate (which generally appears to fall under the auspices and spirit of agricultural permitted development rights – GPDO, Part 6, Class C)
- Removal of old haul road berms that detract from the local landscape
- Use of overburden and material from the berms to infill the old void at Wagers Flat
- Seeding, planting and fencing of the site
- Recovery and use/export of currently stockpiled processed stone (aggregate) - to help offset the costs of the engineering and restoration works and to ensure that readily available valuable construction materials are not wasted (further to our meeting Coverland has assessed the stockpiles and estimates they contain approximately 15-20,000 tonnes of usable processed stone)

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The indicative timescale for these works is around 2-3 months.

Proposals to rationalise uses and restore/reclaim areas at Backdale Quarry, including:

- Clarification of established use within existing buildings
- Bring forward replacement buildings and improve the visual appearance of the site
- Use of on-site material to buttress and batter against the old quarry faces – to improve safety and integrity of the faces
- Seeding/planting

We did mention the impending submission of an application for a certificate of lawful development/use, based on the continuing use of the building at Backdale Quarry. In general terms you seemed to accept the basis and history behind this submission, which is reflected in the bullet points above.

We must stress our view that joint working, co-operation and local engagement are a far better means of securing practical solutions in relatively short timescales rather than the instigation of formal proceedings, which are time consuming, costly and divert all parties away from securing the best land-use outcomes.

We would be grateful if you could bring these comments and proposals to the attention of your Planning Committee and would welcome any help you can give in ensuring some weight is attached to these considerations when considering the question of making a Prohibition Order.

Yours sincerely,

Simon Heaton
Heaton Planning

Tel 9 The Square, Keyworth, Nottingham, NG12 5JT
Fax
email

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Registered office 12 Buldford Road, West Bridgford, Nottingham, NG2 6AB. Registered No. 4726239

COVERLAND

My Ref: JC/LB/H110
Date: 5 September 2012

Mr J Dixon
Chief Executive
Peak District National Park Authority
Aldern House
Baslow Road
Bakewell
Derbyshire
DE45 1AE

Dear Mr Dixon

Longstone Edge East – Coverland UK Ltd

Further to the meeting that took place earlier this year concerning the above land, we are writing on behalf of our client, Coverland UK Ltd, to outline the latest position and thinking and to seek agreement of the National Park Authority to an initial way forward.

We are well aware that the Longstone Edge East mineral planning permission and past mineral workings present a complex planning background, which now requires a proactive approach by all parties to find deliverable planning solutions in order to secure the most sustainable future uses of the land.

In this regard, we deal below with the following matters:

- Land and Mineral Interests.
- The Minerals Permission and the Minerals Review (ROMP).
- Potential Development Proposals.
- Rights of Way Matters.
- Community Engagement.
- Joint Working and Progress Reports.
- Request for an Agreement on the Way Forward.

Land and Mineral Interests

Our client, Coverland UK Ltd, has gained control of the interests of Bleaklow Industries Ltd and, as a consequence, now owns significant areas of land, as shown on the enclosed drawing. The Company also has mineral rights covering various areas of land. These are described on the accompanying extract from the Land Registry entry.

Having now acquired these land and mineral interests, Coverland UK Ltd is giving consideration to all their options concerning:

The potential for future recovery of fluorspar and related fluorepar supply considerations;

The need for reclamation/restoration of land;

The potential for delivering development that can remediate and appropriately landscape disturbed areas;

Delivering solutions and benefits in respect of rights of way issues and access to the countryside;

Establishing new uses that can bring overall benefits (economic, social and environmental) to the Peak District National Park.

In terms of mineral working, Coverland UK Ltd is aware of the planning history and the outcome of the legal actions and the implications that this has for any future mineral recovery. The Company is also now in dialogue with the new owners of Glebe Mines in order to establish their intentions in terms of potential mineral recovery from the area to which the Longstone Edge East planning permission relates. As you will be aware, Coverland UK Ltd has a variety of mineral interests, including quarrying and mining operations, and it is considered important that we consider, as part of the work on the site options, any potential benefits of recovering minerals from the site.

In summary, potential options are currently being considered and Coverland UK Ltd needs to work with the other owners and, particularly, the Peak District National Park Authority to establish the best and most sustainable options for this land.

The Minerals Permission and the Minerals Review (ROMP)

We are aware that the Minerals Review (ROMP) of the Longstone Edge East mineral site is stalled and that to progress it would require the submission of a substantive body of information and evidence. Although the stalling of the ROMP has led to the mineral site going into automatic suspension, it is apparent that there is still a valid planning permission for mineral extraction and that the Court actions have established the nature of any future working.

We acknowledge that the Mineral Planning Authority is required to consider the potential for prohibiting further mineral working after two years of the site remaining in automatic suspension, ie after 31 October 2012. This is not straightforward though, as regard must be had to the following:

- Where the mineral operations have permanently ceased and whether there are intentions for further workings of the site?
- That various parties have land and mineral interests and the Longstone Edge East planning permission covers a large area, geographically and geologically.
- The potential to achieve effective and deliverable restoration through the making of an order.

Having regard to the comments above, we do not see any immediate benefit in Coverland UK Ltd attempting to de-stall the ROMP. At the same time, we cannot discount the potential for some mineral recovery and do not see that formal proceedings to prohibit future mineral working is an appropriate way forward in such circumstances where other options may secure better, sustainable outcomes in a cost-effective manner and also have the potential to bring some closure on the question of future mineral operations.

We will expand on these points a little later in the letter.

Potential Development Proposals

Whilst mineral recovery has to be considered, you are aware from the previous meeting and subsequent correspondence that we are working on a series of linked development proposals that could deliver sustainable future development. Such development proposals could present better alternatives to mineral working and could remediate areas of past mineral working and deliver restoration and landscape enhancement.

In order to deliver future land uses, as well as remediation/restoration, it may be necessary to carry out operational phases of development and civil engineering operations. This would include internal haulage/movement and placement of excavated materials, the recovery and use of any usable materials, and the re-grading and engineering of previously disturbed sites.

A very brief summary of these proposals is as follows:

Backdale Quarry

We confirm that the intention here is to permanently close the Quarry, create level platforms within a secured quarry area and to develop the site for employment use. This possibility was raised at the meeting earlier this year and you have provided comments.

Wagers Flat

We understand that the Authority requires restoration of the excavation and the removal of the stockpile of excavated material close to it. Recognising also that the Authority is not minded to accept the removal of the stockpiled material off-site, we will, nevertheless, be pleased to talk about the principle of a proposal that would utilise this material in the

restoration of Backdale whilst disposing of material removed from Backdale into the excavation. Clearly this is a simplification of a detailed proposal that we would put to you but the principle remains to be considered from our point of view.

Calver Park (Red Rake Mine)

We previously put to you a proposal that would see this site developed, highly sympathetically, by means of a series of holiday lodges and we left a copy of a drawing, prepared by Oasis Urban Design & Architecture, for your attention. Whilst brief comments have been received with regard to the development of this site no detailed further discussions have taken place.

Necessarily, development of the above proposals will take a period of time but consultations have already been commenced with the Derbyshire County Council from a highways point of view. We feel that it will be helpful to have ongoing discussions with the Authority's representatives on site to discuss each of these developments. At this stage, our objective is to have proposals prepared to submission stage within approximately six months before which we will, of course, liaise with you in respect of the detailed content of any necessary assessments and also the requirement for an Environmental Impact Assessment.

Rights of Way Matters

As a consequence of recent dialogue with the Authority, we are aware of a number of rights of way considerations and E-Mails have recently been exchanged with Richard Pett on this matter. We are pleased to confirm that we see a mutually advantageous way forward here in the suggestions made by Mr Pett and by the Derbyshire County Council. On the further matter of other rights of way in the area, there are intentions to carry out improvements and to provide a better standard and condition for them. These are important issues for Coverland UK Ltd, as new landowner, and we therefore wish to stress that it is our intention to deal with the resolution of existing problems as well as future improvements to the rights of way network as soon as possible. Current thinking is that potentially the best vehicle for bringing forward these solutions/improvements would be through the linked development proposals referred to very briefly above. A resolution and rights of way obstructions and diversions, as well as potential future improvements, could then be dealt with through the provisions of the Town & Country Planning Act 1990, subsequent to the determination of planning applications, rather than through legislation contained within the Highways Act.

Community Engagement

We are conscious of both the past interest and concern of the local community concerning Longstone Edge East as well as the general requirement to engage and work with the community in bringing forward future development proposals. In this regard, we can confirm that we have established contact with and met representatives of both the Save Longstone

Edge Group and the Friends of the Peak District. We have undertaken to continue this liaison and to involve these and other organisations in discussing the practicalities of delivering potential development solutions. We have not, at this stage, met with any of the Parish Councils but this, we hope, can be something that is addressed within the next few weeks.

Joint Working and Progress Reports

In a similar fashion, we intend to work closely with Officers and Members of the Peak District National Park Authority to secure sustainable future uses and a practicably deliverable way forward for the Longstone Edge East area. Besides the obvious ongoing dialogues and specific pre-application discussions with Officers, we believe that there will be merit in having regular progress reports to the Planning Committee to keep it updated on the work that is taking place and the potential outcomes that it is hoped can be achieved. We consider that this will, in combination with our community consultation, help to keep all interested parties engaged and involved in the planning for this site/area. Feedback from the Authority's Planning Committee arising from the progress reports will be very helpful to our Team, particularly in view of the sensitive nature of the site and the considerable planning history.

Agreement on the Way Forward

We hope that you will agree that the thinking and approach that has been outlined presents a good opportunity to make some positive steps towards resolving many of the main issues faced at Longstone Edge East and to deliver sustainable development in the future. We believe that the approach is reflective of the requirements of the National Planning Policy Framework (NPPF), as it involves a proactive approach to finding deliverable planning solutions.

We consider that every effort should be made, on all sides, to avoid a descent into litigation and court action. This is, nevertheless, a very complex site and all parties are faced with challenging issues. Notwithstanding these considerations, there is the potential to achieve a net benefit to the Peak District National Park, notwithstanding that this may involve some operations and a continuation of localised short-term disturbance in order to achieve the best possible long-term outcome. As a first step, we wish to broker an agreement with the Authority, along the following lines:

To allow Coverland UK Ltd, through its advisors, to carry out a detailed professional assessment of all development/delivery options, as part of an overall intent to bring forward, as rapidly as possible, a series of linked proposals. During such a period, the Peak District National Park Authority would agree that it will not embark upon any formal proceedings, immediately after 31 October 2012, concerning the prohibition of future mineral workings within the Longstone Edge East planning permission.

In terms of timescale, it would be beneficial if the deferral of any potential proceedings could run to at least 31 October 2013. Our thinking here is that assessment work, regular engagement and submissions will take place generally in accordance with the following indicative timetable:

- Late summer/autumn 2012 – Community Engagement, assessment of all development options, technical/professional assessment work and design work and liaison with regard to potential EIA Screening and Scoping.
- Winter 2012 – Further Community Engagement and refinement of proposals.
- Early 2013 – Submission of proposals.
- Spring 2012 – Determination of potential planning applications.
- Summer 2013 – Completion of agreements and issuing of decisions.

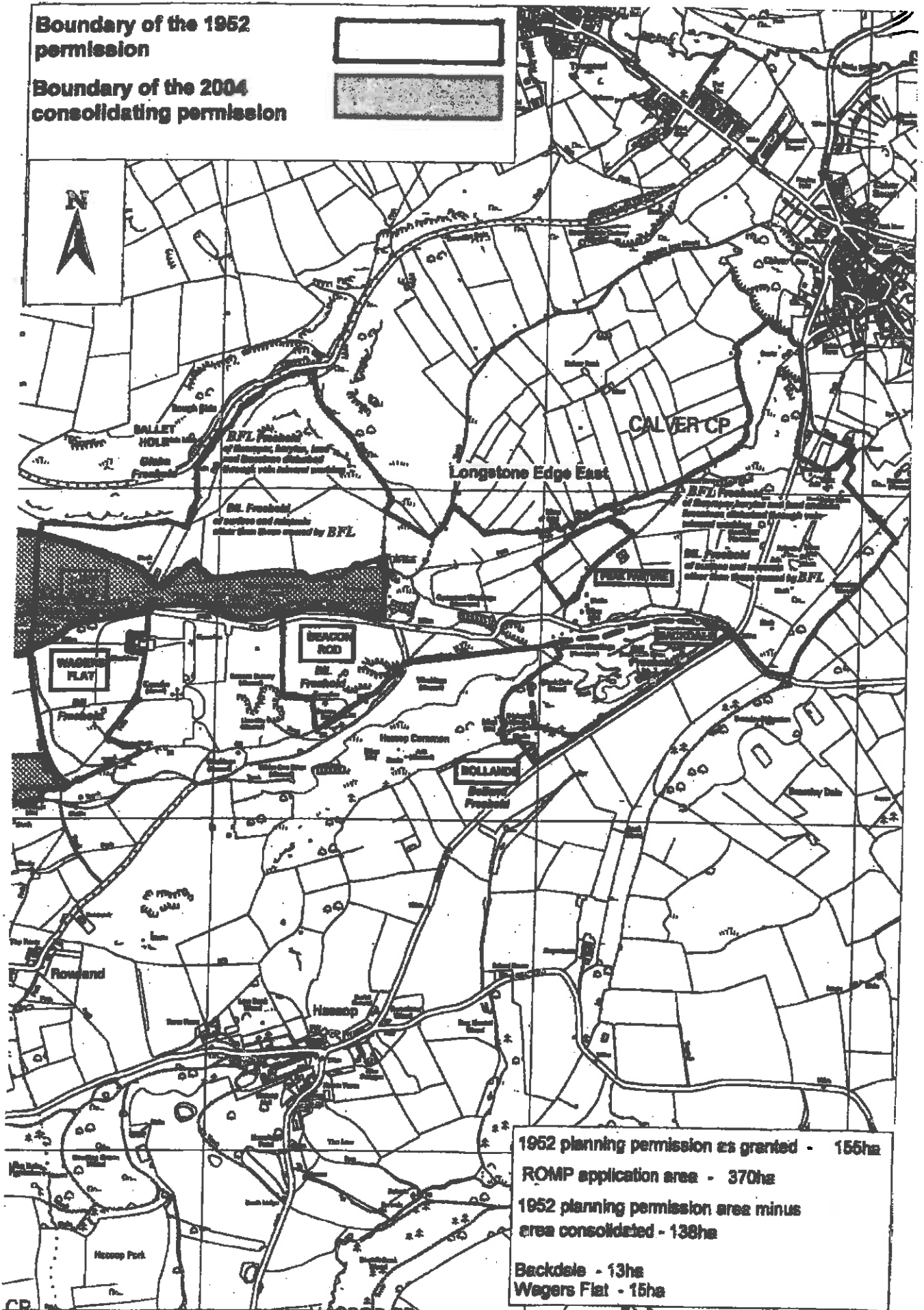
We suggest that progress reports be presented to the Authority's Planning Committee on a quarterly basis, perhaps starting with this request for an agreement being presented to the Committee at the first available opportunity. We shall, of course, be pleased to discuss any matters arising from the undertakings that we have set out in this letter because the Authority's reactions are important to the Company and we will be grateful if you will reply initially to the Clay Cross address below.

Yours sincerely

John Church

John Church Planning Consultancy Ltd
Victoria Buildings
117 High Street
Clay Cross
Chesterfield
Derbyshire S45 9DZ

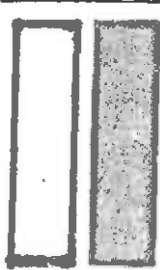
Simon Heston
Heston Planning Ltd
8 The Square
Keyworth
Nottingham
NG12 5JT



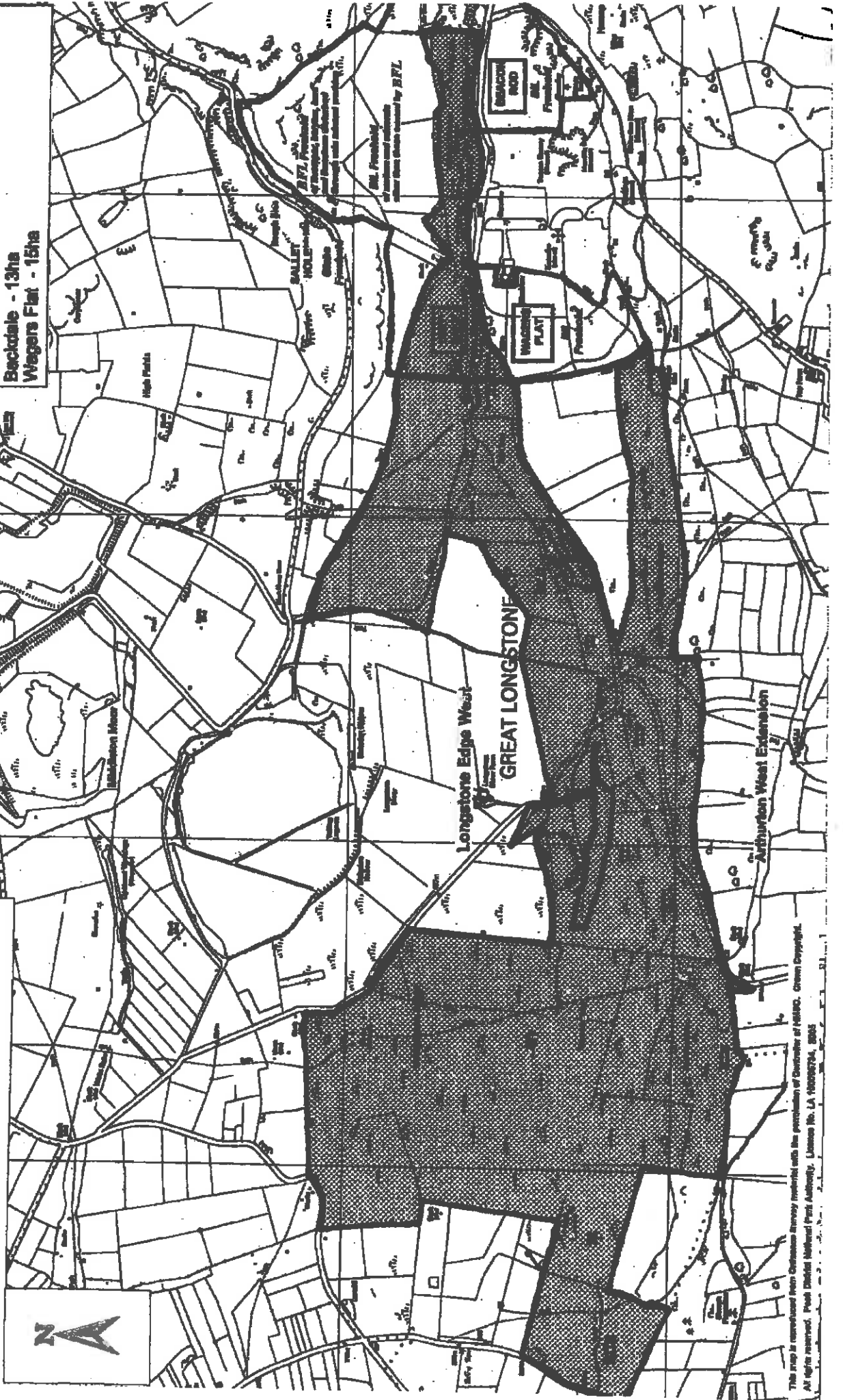
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Boundary of the 1952 permission

Boundary of the 2004 consolidating permission



1952 planning permission as granted - 155ha
ROMP application area - 370ha
1952 planning permission area minus area consolidated - 138ha
Backdale - 13ha
Wagers Flat - 15ha



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