

1. MINERAL EXTRACTION OPERATIONS – BACKDALE, LONGSTONE EDGE (MIN.2382/JEH)

Introduction

This report is to update Members of the latest situation with regard to mineral operations on Longstone Edge. The site has a complex history which was set out in a report to Committee in November 2003. Only the recent history is reiterated in this report.

History

In July 2003 it came to the Authority's notice that a new operator, Merrimans, had arrived on site and had started to work at Backdale.

A letter was sent to the operator, Merrimans, with a copy to the landowner, Bleaklow Industries Limited, drawing attention to the terms of the 1952 planning permission; advising that in the opinion of the Authority the primary purpose of the planning permission is for the extraction of vein minerals (fluorspar, barytes and lead) and the other minerals (limestone) can only be worked, in the course of working the vein minerals, as an ancillary mineral; and requesting information on the quantity and ratios of the minerals extracted and proposed to be extracted.

In response, Merrimans has confirmed its intention to work the site under the 1952 permission but cannot provide details of the quantity of minerals to be won since the geological information is insufficient. Bleaklow Industries Limited has responded stating that the lessee is contractually obliged to comply with the terms of the 1952 permission. Bleaklow consider there is no case for enforcement action and refers to the Authority's previous attempts to stifle lawful activity and the resultant High Court action. Any subsequent attempt by the Authority to prevent lawful extraction of minerals will be resisted in a similar fashion.

Due to past history, the significant profile and the legal complexities of the issues surrounding this site, Counsel's opinion has been sought and written advice received. The initial action recommended by Counsel was to commence with the serving of Planning Contravention Notices (PCN's) to obtain information on the activities taking place.

The PCN Responses

PCN's have been served on Merrimans Ltd and on Bleaklow Industries Ltd the landowner. The responses have now been received and the findings are summarised briefly below.

The PCN response from Merrimans Ltd. states that the lease is held by a subsidiary company MMC Mineral Processing Ltd. The response from Bleaklow Industries Ltd confirms that they are the landowner.

Merrimans Ltd solicitors (who respond on behalf of both Merrimans Ltd and MMC Mineral Processing Ltd), state in their covering letter that MMC intended to sell any fluorspar won at the site but were unable to secure a satisfactory arrangement with the processor. MMC intend to progress plans for an on-site processing facility once the enforcement issues have been resolved.

Responses to the other questions posed in the PCN's are answered similarly by both Merrimans Ltd & MMC Mineral Processing Ltd, and indicate an agreed approach from the companies in relation to this matter.

In brief the PCN's indicate that since August, when it is understood that MMC's leasehold period began, no vein mineral has been won from the site. Fluorspar is stockpiled on the site and this amounts to 6,000 tonnes. It is unclear from the response when this was extracted, and clarification will be sought.

The PCN responses state that 72,000 tonnes of limestone have been won from the site, with sales of around 40,966 tonnes and stockpiles of 21,000 tonnes.

Working is taking place in accord with the working scheme set out in the 1997 submission for review of the old mineral permission, according to the operator. However, the operator's PCN goes on to state that details of a scheme of working the site are still in the course of production.

The PCN response from the operator asserts that the extraction of limestone is in accord with their interpretation of the 1952 planning permission, and that they do not consider that limestone must be ancillary or incidental to fluorspar extraction.

Comment

It is considered that further legal advice should be taken, regarding how best to proceed in this matter, as the key issue is the legal interpretation of the 1952 planning permission. Consequently this report does not seek authority for enforcement action, but is for updating purposes only.

Human Rights

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

RECOMMENDATION:

That the report be noted.

List of Background Papers (not previously published)

Letter from Marrons Solicitors (acting for Merrimans & MMC Ltd) dated 17 February 2004.

Letter from Bremners Solicitors (acting for Bleaklow Industries Ltd) dated 17 February 2004.