

1. BACKDALE QUARRY, LONGSTONE EDGE (MIN.2382/JJL/BP)

Purpose of Report

- 1.1 To consider the action that the Authority may need to take if the present enforcement notice against extraction of limestone at Backdale is declared a nullity by the Planning Inspectorate.

Recommendation

- 1.2 **That the report be noted.**

Background

- 1.3 The background to this case was previously set out in the Part A reports to the Authority Meetings on 14 October and 9 December 2005.

Current Legal Situation

- 1.4 On 8 February 2006 the Planning Inspectorate advised that a recent High Court case may have implications for the Authority's enforcement notice against quarrying of limestone at Backdale. The Inspectorate had written to all parties to the Backdale case to advise that a draft judgement on a planning case elsewhere had concluded that an enforcement notice was a 'nullity' and therefore should not be considered further. The Inspectorate had to consider whether this new case law could also be relevant to the Authority's enforcement notice for Backdale.
- 1.5 The Inspectorate has confirmed that it is endeavouring to provide a decision, on whether or not the Authority's enforcement notice is also a nullity, before the resumption of the Backdale planning inquiry on 3 April 2006. If the enforcement notice is a nullity it falls and the inquiry does not continue. The Authority's stop notice would also fall. In that event, the quarry operator could recommence working Backdale.
- 1.6 If the decision is given before the Special Authority Meeting on 24 March and concludes that the Authority's notice is not a nullity then the meeting would not be needed and would be cancelled. The planning inquiry would go ahead.
- 1.7 Officers are considering how the Authority could act to maintain its case against limestone quarrying if the Planning Inspectorate has to conclude nullity of the notice. Consultations are continuing with the Authority's Counsel and Supplementary Reports under part A and part B of the agenda will be tabled at the meeting.

Human Rights aspects including Equal Opportunities, Health & Safety

- 1.8 There are no apparent issues to consider.

List of Background Papers (not previously published)

Nil