

Cumbria County Council

Memorandum

From The County Solicitor

To County Planning Officer

Your Ref: [REDACTED] /S209/CA49

Our Ref: [REDACTED] TCP30

26th January, 1987

Validity of Planning Permission at High Close Quarry,
Plumbland, Aspatria.

I refer to your memorandum of 2nd December and I agree with your opinion that the planning permission for the large area of land edged blue is still valid. Condition 2 of the Permission dated 8th December, 1954 should be treated as an outline permission requiring the approval of full details by the Council before development commences. The Council would have the opportunity to refuse approval of such details, subject to a right of appeal to the Secretary of State.

The question of abandonment raised in Tarmac's letter of 28th November will not apply in this case. The Pioneer Aggregates case established that the abandonment of rights conferred by an express grant of planning permission could only be regarded as lost in the two limited cases:-

- i) where the carrying out of some earlier development under a different permission had made it impossible to carry out the development permitted by the permission under consideration and
- ii) where the landowner has exercised an election by claiming and obtaining a benefit to which he was not entitled of a planning permission was valid and effective: he may then have waived such rights as he may have had under the permission.

I return your file.

