WITHDRAWAL OF ENFORCEMENT NOTICE – LOW PLAINS QUARRY
1.0 RECOMMENDATION

1.1 That the committee note the action taken under delegated powers.

2.0 BACKGROUND

2.1 The site is an active sand and gravel quarry, just to the east of the A6 between Plumpton and High Hesket in the Eden Valley. Planning Permission was originally granted on September 1991 for the extraction of sand and gravel. The site was due to be completed by 30 September 2011. A further planning application was made in 2004 for 0.9 hectares of additional soil storage adjacent to the site which was granted June 2004, this also expired on 30 September 2011.

2.2 Planning applications were submitted in summer 2011 to extend the life of the site. Members resolved to refuse the planning applications at the Development Control and Regulation Committee on 3 January 2013 and a refusal notice was issued. An Enforcement Notice was issued 7 June 2013 following the failure to negotiate an alternative solution and the operator continuing to extract sand and gravel at the quarry despite no planning permission being in place. An appeal was lodged against both the refusal of the planning applications and the Enforcement Notice. The appeal started on 16 August 2013. The appeal suspended the effects of the Enforcement Notice and the winning and working of mineral has continued.

2.3 The appeals were originally being dealt with by the Planning Inspectorate by the written representations procedure, however, in August 2014, the Planning Inspectorate determined that the appeals would be heard at a public inquiry instead.

2.4 The appeal was heard at a Public Inquiry held at Penrith Community Fire Station. It opened on 17 March 2015 and was closed on 19 March 2015.

3.0 WITHDRAWAL OF NOTICE

3.1 Due to the delays in the appeal being heard, the Enforcement Notice would have required substantial correction to account for the volume of material that had been removed after the suspension of its effect and the continued working by Lafarge Tarmac.

3.2 The County Council obtained legal advice following discussions with the Planning Inspectorate and Lafarge Tarmac and it was therefore agreed that the Enforcement Notice would be withdrawn on the opening of the appeal so that the public inquiry could focus on the planning application appeals.

4.0 PLANNING ASSESSMENT

4.1 Ultimately, should the planning appeals be dismissed, the provisions of S173A (4) of the Town and Country Planning Act 1990 (as amended) expressly permit the County Council to issue a second Enforcement Notice. Although Lafarge Tarmac would have a second right of appeal, in such circumstances, it would be unlikely to succeed on ground “a” (that planning
permission should be granted).

4.2 The decision of the Planning Inspectorate in respect of the appeal is expected in the next 2-3 months following which the County Council will review its position as to the necessity or otherwise in relation to any further action.

Human Rights Act 1998

4.3 The decision has a limited impact on the environmental amenity of the area. Any impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) are minimal and were proportionate to the wider social and economic interests of the community.

4.3

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Background Papers
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