

Please find below comments and objections to the proposed development for a further 9 dwellings on land to the south of the Hare Hill Croft development site.

The Application ref. is 3\_2022\_0500 for the 9 dwellings to the south of Hare Hill Croft. The application refers to the Permission in Principle (PiP) application 3/2018/0582 and PiP appeal decision APP/T2350/W/19/3223816.

## 1. Abbreviations

- HHC: Hare Hill Croft
- RVBC: Ribble Valley Borough Council
- LCC: Lancashire County Council
- PiP: Planning in Principle
- CMP: Construction Management Plan
- EA: Environment Agency

## 2. Chronology

- 2015 Hare Hill Croft (HHC). The planning approval from 2015 (3/2014/0618) contains all the conditions which are enforceable as part of the HHC development.
- 22 June 2018. Application 3\_2028\_0582 submitted for Planning in Principle for up to 9 dwellings to the south of HHC.
- 7 September 2018. Application 3\_2028\_0582 refused by RVBC.
- 23 January 2020. Appeal APP/T2350/W/19/3223816 allowed.
- July and August 2020. The road area along the western and southern boundary of HHC (which is now clearly the location of the proposed highway from the latest application) was created by removing significant volumes of natural rock head.

Government guidance states, *"Following a grant of permission in principle, the site must receive a grant of technical details"*.

The importation of soils Appeal Decision (refer 3.5 below) document included a Planning Inspectorate common ground statement ref. RJ-117 which states at section 3.

### Permission in Principle (PiP):

Permission in Principle ('PiP') for up to a further 9 dwellings was granted at appeal in 2020 (RVBC Ref 3/2018/0582; PINS Ref APP/T2350/W/19/3223816). Technical details have yet to be approved and so work may not yet lawfully commence pursuant to the PiP.

- April 2021. The Public Right of Way (footpath) was diverted to the HHC western and southern boundary edge, without permission and LCC haven't commented on or approved the new route as yet as it is part of their PRoW "backlog".

### 3 Relevant points for consideration and background context

#### 3.1 RVBC Core Strategy – aims to protect Open Countryside, protected species and biodiversity, green corridors and the like – refer points 5 and 6 below.

This development will remove Open Countryside forever, affect biodiversity and protected species and cut off the last remaining green corridor that runs along the protected woodland to the south, the edge of the quarry to the west and into the wooded areas and fields to the north beyond the quarry.

#### 3.2 RVBC internal governance – requires the Council to be fair and just.

#### 3.3 High Court Decision.

The recent high court decision specifically quotes the core strategy.

<https://www.ribblevalley.gov.uk/news/article/59/ribble-valley-success-as-high-court-quashes-planning-appeal-decision>

After the ruling RVBC planning authority stated... **[Emphasis added]**

*“The High Court has quashed a Planning Inspector’s decision to allow a developer to build 39 homes in Ribble Valley.*

*In Ribble Valley Borough Council v the Secretary of State for Housing, Communities and Local Government and Oakmere Homes, His Honour Judge Bird ruled that the council’s application of local planning policy had been correct.*

*The council applied to the High Court to quash a decision by the Planning Inspectorate to allow an appeal by Oakmere Homes to build the houses at the junction of Chatburn Road and Pimlico Link Road in Clitheroe.*

*The council argued that the inspector had erred in law when making his decision on the basis that he had misinterpreted local planning policy set out in its Core Strategy.*

*The Secretary of State for Housing, Communities and Local Government said he agreed with the council and did not participate in the hearing.*

***Ribble Valley Borough Council’s Core Strategy aims to protect open countryside from development.***

*And the successful delivery and defence of the Core Strategy was fundamental in the council’s decision to challenge the inspector’s decision.*

*In his ruling, His Honour Judge [REDACTED] quashed the decision by planning inspector [REDACTED] saying: “The inspector’s decision is firmly rooted in a misunderstanding of the policy and so must be quashed.”*

***[REDACTED] Ribble Valley Borough Council’s director of economic development and planning, said: “Our Core Strategy sets out what can be built in the borough and where, shaping infrastructure investments and determining future development.***

***“It seeks to direct housing to sustainable locations and protect the borough’s open countryside, which is a top priority.***

***“This ruling confirms the correct application of our Core Strategy and that development in the countryside will only be allowed when justified by local need.”***

***Ribble Valley Borough Council leader Stephen Atkinson said: “Our officers work hard to ensure the right type of development takes place in the right locations across the borough and we welcome this judgment, which has supported and protected our Core Strategy.***

***Judge [REDACTED] found in favour of Ribble Valley Borough Council and awarded costs against the Secretary of State for Housing, Communities and Local Government and Oakmere Homes.***

***The matter will now be referred back to the Planning Inspectorate for reconsideration”***

3.4 Lack of enforcement by RVBC (and possibly LCC) means there is a conflict of interest as this application, that RVBC may approve, is set to dismiss all of the previous activities that have been carried out without planning permission and/or appropriate licenses and permissions.

3.5 Appeal Decision importation of soils.

The Appeal Decisions “APP/Q2371/C/19/3243448, APP/Q2371/W/20/3264309” allowed the imported soils to remain and the provision of retaining structure was considered at paragraphs 18, 19 and 20 of the Appeal Decisions.

The current proposals show the Plot 9 garage close to the boundary of No.3 HHC, which already also has the HHC landscape hedge around its perimeter. An approximately 3m depth of the imported soils, that were subject of the Appeal Decision will need to be removed in this area and be replaced with a retaining structure and, in addition, the proposed landscape drawing shows a further screening hedge that cannot realistically fit into the area available.

The Unilateral Undertaking referenced in the Appeal Decision has not been completed to date as part of the area is covered by the waste stockpiles.

3.6 The Public Right of Way has already been diverted to the southern and western boundary of HHC without any notification of permission from either LCC or RVBC.

3.7 Appeal Decision APP/T2350/W/19/3223816 - PiP for up to 9 dwellings

The Appeal Decision confirmed that the proposed site lies in Open Countryside at paragraph 12 of the Appeal Decision.

The crux of the matter would appear to be stated at paragraph 19 of the Appeal Decision, below;

<p>19. Notwithstanding the above, even with the minor revisions set out in the HEDDPD to Chatburn settlement boundary, the majority of the site lies beyond the settlement boundary and within the open countryside. As such, CS policy DMH3 is of relevance and allows residential development where it meets an identified local need.</p>
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Put simply, there is no identified local need for 9 dwellings of this scale in this location.

The Appeal Decision at Paragraph 19 states, below;

16. In any event, there is a public right of way which runs through the site and which provides an alternative means of access from the eastern corner of the site towards Crow Trees Brow. This would provide a shorter alternative route to the foot of Chatburn Old Road than access via Chatburn Old Road itself and again does not dissuade me from concluding that the site is anything but closely related to the main built up area of Chatburn.

The narrow PRow at the point of exit at the Crow Trees Brow end is clearly not a realistically useable “shorter alternative route” as it is extremely narrow, hedged in, unlit and with stiles at each end.

3.8 Waste classification of the stockpiled materials in accordance with Environment Agency regulations is as detailed below as advised by an expert who understands this subject.

*The naturally occurring material stockpiled outside the red line boundary of the HHC development which was generated from the HHC development site would be classified as waste by the EA as it has not been reused in the original HHC development.*

*The extension of the HHC development works (beyond what was approved and licensed) and the advance works for future developments without any approval or licenses (the PiP site), together with the associated loss of and damage to the designated Open Countryside and natural habitat are for the respective Councils at LCC and RVBC to consider.*

*If the developer intends to extend the development by means of a further planning application, the material has still crossed the current HHC boundary and would still be regarded as waste, and has therefore been illegally tipped. There is some leeway that with the landowner’s permission (landowner at the location of the stockpile) it could be left there, normally for 12 months, and if replaced within the source site, it wouldn’t be regarded as waste. However, if used outside the former red line boundary of the HHC site it’s been discarded and without permit to use, MMP or U1 exemption, the material remains waste.*

*If the next phase of the development had already received separate planning and the material was suitable for re-use (without treatment or processing), and was naturally occurring and inert, the operator could have declared an MMP and treated it as direct import, assuming the volume in question didn’t exceed the requirements of the development levels. Alternatively, if the stockpile was < 5000t (aggregate – inert) then the operator could have applied for a U1 exemption. The situation is different if the material is made ground. This would require a hub and cluster MMP and prior EA approval, but in the absence of planning permission being granted and in place on the “next” phase, the boat has sailed in any case.*

*At the moment, the only way the stockpiled material could be there with any regulatory approval would be if the landowner / operator had a permit registered with the EA. There is nothing on the public register on the EA website for this area.*

*The area of PiP highway that has been excavated along the western edge of the HHC houses is within the original HHC red line planning area and site area as per the CMP. This*

*additionally excavated material is therefore waste and has been stockpiled on Open Countryside and part of the proposed PiP site.*

*The area of PiP highway that has been excavated to the southern boundary edge of the HHC houses is outside of the HHC red line boundary, so this is Open Countryside that has been permanently removed and added to the stockpiles which also sit on Open Countryside, all without any planning permission.*

#### 4 The Hare Hill Croft Development

- 4.1 To this day the HHC site remains unfinished with dangerous raised manhole covers in the highway which create trip hazards for pedestrian users and risk of tyre damage for drivers. The water running off the HHC site during rainfall events cannot enter the HHC drains as they are raised which leads to torrents of water running down Old Road into Chatburn village below and this has been going on now for years. The last HHC residents moved in 14 months ago.
- 4.2 The HHC site works utilised a site storage and compound area to the west of the HHC planning approval red line site boundary that was identified in the HHC CMP. The HHC site activities went beyond both the red line planning boundary and the areas identified as required for access and construction within the HHC CMP.
- 4.3 The HHC site still has an extensive site compound and significant stockpiles of unused materials which are located both within the HHC development site area and on the Open Countryside beyond. The site compound and the stockpiled areas should be removed, and the affected original land (designated as Open Countryside) should be reinstated back to how it was, all of which is in accordance with HHC planning approval according to LCC.
- 4.4 The result of all of this is that significant quantities of waste material from HHC have been deposited on land that is designated as Open Countryside. The HHC site planning approval required the site area affected by the works (as approved by RVBC) to be reinstated back to original conditions.
- 4.5 Application 3/2022/0500 for 9 dwellings will clearly require the use of some or all of the HHC site area that has been previously used. No proposed works under Application 3/2022/0500 should take place until HHC is fully complete. In the event of this application being approved, and the reinstatement requirements for the HHC site are not completed, then the same reinstatement works for the Open Countryside that has been used, removed and damaged by the HHC site works should be fully agreed as part of this application process.
- 4.6 All of this is relevant to the current application as the works associated with this application will need to use the same site compound areas and will no doubt wish to use the waste stockpiled materials from the HHC development. The residents of HHC expected the site and surrounding areas to be returned to their original state as part of the final completion of HHC.

Figure 1 (attached separately) indicatively highlights the areas of land affected by the points noted above and throughout this document.

## 5 Open Countryside and Green Corridors

Waste materials have been stockpiled on and caused serious harm to Open countryside.

Existing green corridors will be lost forever.

In addition to the comments above regarding Open Countryside, the proposed development will remove a significant area of land that is currently designated as Open Countryside and the works will destroy existing grassland habitat and Open Countryside which is used by protected species including, but not limited to, bats, badgers and barn owls.

## 6 Biodiversity and Geological Conservation

The Applicant has ticked no to all of the questions on the application form.

The proposed site is in designated Open Countryside and contains the original geological features and grasslands that were previously identified as protected habitat within the HHC planning permission documents. This is existing natural habitat that has designated status and would be destroyed or affected by the proposed development.

Details of the existing habitat that was classified as "UK BAP Priority Habitat / Habitat of Principal Importance of Conservation" and "UK BAP Priority Species" are contained in the Ecology Report reference "14\_0618\_ecology\_report" submitted in relation to the Hare Hill Croft RVBC Planning Application Decision reference 3/2014/0618.

In addition, the corridor of land either side of and including the proposed site area is habitat for a wide range of species. Discussions with local neighbours has evidenced that bats and hedgehogs have been observed by using the "green" corridors along all of the HHC boundaries between the established woodland to the south, the edge of the quarry to the west and the woods and fields to the land north of the quarry. Barn owls have also been observed actively hunting along the same green corridor. Badgers have been observed as active in the area of the site both historically and currently, a fact that has been validated by a representative of the [REDACTED] camera trap footage.

RVBC "Core Strategy 2008 – 2028 A Local Plan for Ribble Valley Adoption Version" Key Statement EN4 (extract below) emphasises the importance of green corridors.


**KEY STATEMENT EN4: BIODIVERSITY AND GEODIVERSITY**

The Council will seek wherever possible to conserve and enhance the area's biodiversity and geodiversity and to avoid the fragmentation and isolation of natural habitats and help develop green corridors. Where appropriate, cross-Local Authority boundary working will continue to take place to achieve this.

In addition, RVBC "Core Strategy 2008 – 2028 A Local Plan for Ribble Valley Adoption Version" Policy DME3 (extract below) states;

POLICY DME3: SITE AND SPECIES PROTECTION AND CONSERVATION

**10.14** DEVELOPMENT PROPOSALS THAT ARE LIKELY TO ADVERSELY AFFECT THE FOLLOWING WILL NOT BE GRANTED PLANNING PERMISSION. EXCEPTIONS WILL ONLY BE MADE WHERE IT CAN CLEARLY BE DEMONSTRATED THAT THE BENEFITS OF A DEVELOPMENT AT A SITE OUTWEIGH BOTH THE LOCAL AND THE WIDER IMPACTS. PLANNING CONDITIONS OR AGREEMENTS WILL BE USED TO SECURE PROTECTION OR, IN THE CASE OF ANY EXCEPTIONAL DEVELOPMENT AS DEFINED ABOVE, TO MITIGATE ANY HARM, UNLESS ARRANGEMENTS CAN BE MADE THROUGH PLANNING CONDITIONS OR AGREEMENTS TO SECURE THEIR PROTECTION.



1. WILDLIFE SPECIES PROTECTED BY LAW
2. SSSIS
3. PRIORITY HABITATS OR SPECIES IDENTIFIED IN THE LANCASHIRE BIODIVERSITY ACTION PLAN
4. LOCAL NATURE RESERVES
5. COUNTY BIOLOGICAL HERITAGE SITES

95

Core Strategy Adoption version

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6. SPECIAL AREAS OF CONSERVATION (SACS)
7. SPECIAL PROTECTED AREAS (SPAS)
8. ANY ACKNOWLEDGED NATURE CONSERVATION VALUE OF SITES OR SPECIES

The proposals in this Application would not be in accordance with the RVBC Core Strategy.

- 7 Old Road is in a poor state of repair, there is no footpath, and the highway is not capable of coping with the increased levels of traffic both during construction and after the development, where there will inevitably be a significant increase in traffic volumes from future residents and all the other traffic associated with servicing the future development houses. Pedestrian users at high risk include elderly people and school children who regularly use Old Road as pedestrians.

Clearly if permission is granted this current situation will become significantly worse.

#### Planning Application 3/2022/0500 Technical Details

- 8 The details provided in the application should be full technical details. The various drawings provided contain different levels (FFL) for the proposed housing, the landscape drawing is marked draft and the drainage "strategy" drawing is simply a concept. The details provided need to be finalised and resubmitted before any planning application can be fully and properly considered by the Council and other interested parties.
- 9 Services – gas, electric and water. It is not clear where services will be fed into the proposed site. The water pressure associated with the mains water supply to HHC is already low and residents from HHC have reported this issue to United Utilities.
- 10 The proximity and depth of excavation and foundations associated with the proposed development immediately adjacent to the 2m wide services easement as shown on application drawing PL 30 have not been considered or detailed. The 2m wide services easement is an existing easement that accommodated the overhead electricity cables that were diverted as part of the HHC works.

**11 The Public Right of Way (PRoW)**

The PRoW that crosses through the proposed site has already been diverted to the western and southern edge of HHC without notified permission and the permanent location of the PRoW is different to the original PRoW.

**12 Scale of development**

The size and scale of the proposed 9 dwellings is inappropriate for the relatively small site area available and will adversely affect the amenity of the residents of HHC and Crow Trees Brow. The PiP allows for “up to” 9 dwellings, the current proposal is for the full 9 dwellings, all of which are of significant size.

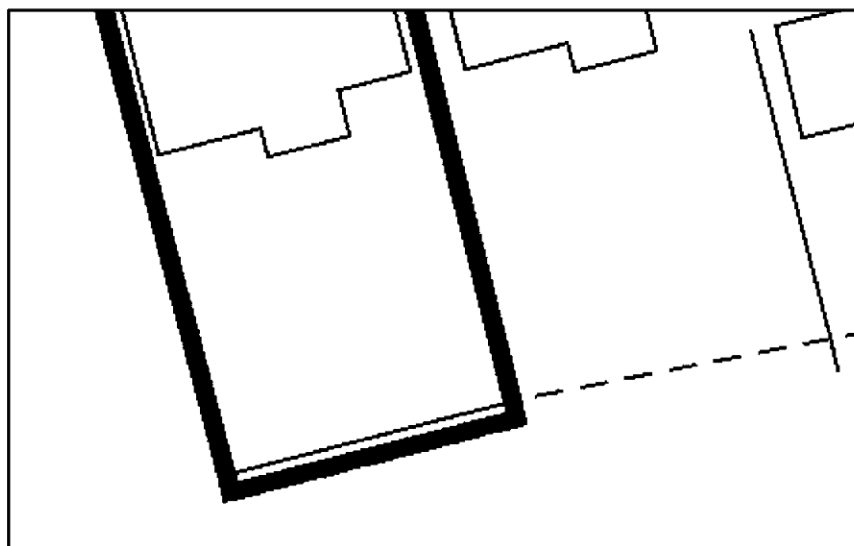
**13 The level differences and proximity of garage at plot 9 require the imported soils to be removed and replaced with a retaining wall structure along the eastern boundary of No.3 HHC. Part of the reason why the imported soils had to remain in place was for the very reason that it was impractical to remove the soils and construct a retaining wall structure.**

**14 Flooding of Crow Trees Brow properties has occurred historically as a result of surface water run-off. The current proposals do not consider this issue at all.**

**15 The landscape details show a new hedge along the south side of No’s. 3, 4, 5 and part of No.6 HHC. This conflicts with the HHC landscape which has been in place since 2021 and has not been maintained since installation. Other elements of HHC landscaping along No.2 HHC have still not been completed.**

**16 Proposed Drainage Strategy. The drainage strategy is merely a concept that requires a detailed design assessment and may or may not prove to be feasible. It is a fundamental part of the proposals and needs to be finalised before any planning permission is granted.**

**17 The proposed site extents are incorrect on the submitted drawings. The red line boundary to the rear garden of No.5 Hare Hill Croft extends in a straight line between the two projecting masonry walls that form the delineation between adjacent HHC properties as shown in extract below land registry extract below. The solid line along the southern boundary of No.5 HHC in the extract below is the original hedge and fence line as surveyed by the Land Registry.**



*No.5 Hare Hill Croft land registry extract*



**In the event that the Application is approved.**

**18 Noise and vibration**

18.1 The Environmental Protection Act states Best Practicable Means (BPM) should be used to reduce the amount of noise generated by a construction project, meaning there are measures which should be taken to reduce the noise to as low a level as reasonably practicable.

18.2 The construction company should identify and make clear what BPM they are going to use on the project to mitigate the nuisance they are going to cause. These could be simple measures such as switching engines off when plant is not in use or broadband reversing sirens (as opposed to tonal ones), to substituting works activities for quieter ones when the planned activities will clearly exceed statutory and permitted levels.

18.3 I recommend that the Council includes a condition requiring a Noise and Vibration Management Plan to be submitted and approved by the Council. This plan will identify what noise and vibration the site activities are likely to generate and provide BPM to control and monitor. This protects all involved, shows the Council have discharged their duties and provides a clear compliance framework that can be readily checked in the event of any non-compliance.

18.4 If the Council are minded to use a Section 61 consent, this would give the construction company noise limits to adhere to.

18.5 If the Council do not plan to use a Section 61 Consent, I recommend that a noise and vibration survey to be completed, this would involve obtaining background noise measurements which can be compared to British Standards to produce noise limits, the most common of which is the ABC method outlined in BS:5228 – 1.

18.6 The noise and vibration surveys should provide an assessment of the likely impact on local residents and include a noise and vibration management plan that covers the contractor's BPM proposals. Potential causes of vibration may include, removal of natural rock, compaction of fills associated with highway construction and installation of piles for foundations. Potential causes of noise and dust would include removal of rock, reversing beepers on site vehicles and cutting of materials on site.

The above conditions will help to protect all involved, show the Council have discharged their duties and provide a clear compliance framework that can be readily checked in the event of any non-compliance.

19 There is no Construction Management Plan (CMP) with the Application. RVBC planning department confirmed that the scale and nature of the project doesn't warrant a CMP at technical planning application stage.

In the event of permission being granted the following points should be considered by the Council and conditioned in any approval as appropriate.

- (i) Full compliance with statutory HSE requirements for safe operations on site including full PPE.

- (ii) Noise, vibration, dust (refer to statutory obligations above) – limits and monitoring regime to ensure compliance should be established and enforced.
- (iii) Use BPM of reducing noise from reversing beepers on telehandler and other plant that is in daily use. There are other means of vehicles reversing safely without beepers in line with HSE guidance.
- (iv) Use BPM to reduce the amount of noise and dust from cutting using mechanical Stihl saws.
- (v) Use BPM to reduce the amount of noise and dust mechanical breakers “peckers” for removal of any natural rock head as this equipment cannot be used in this location without exceeding statutory noise limits. Alternative quieter BPM methods are readily available, for example a rock wheel mounted to an excavator.
- (vi) Limit site working hours to Monday to Friday to reduce site activity reduce nuisance for neighbouring properties on Old Road, Crow Trees Brow and Hare Hill Croft at weekends.
- (vii) Contractor to be a member of (or encouraged to be a member of) the Considerate Constructors Scheme.
- (viii) Access routes from compounds and storage areas to the site area to be clearly established and understood.
- (ix) Location of site compound and material storage areas. Protect privacy of local residents from intrusion from site vehicles, parking, headlights, noise, site security cameras, etc.
- (x) Material delivery restrictions, site hours only and consider off peak deliveries to reduce disruption to local residents.
- (xi) Depth of excavation, proximity to existing properties and associated temporary and permanent works details.
- (xii) The construction method and structure details of retaining walls along the western boundary of No.3 HHC.
- (xiii) Provide a materials management plan and clearly define waste classification, waste management and any licenses required.
- (xiv) On completion removal of all surplus materials and reinstatement of all affected areas within a fixed timeframe, linked to occupancy of last property.
- (xv) Completion of highway surfacing within a fixed timeframe, linked to occupancy of last property.

The immediate adjacent neighbours include elderly and retired residents, families with young children, and local residents working from home. Any proposed construction activity needs to be considerate and take into account the people and properties it would affect.

It is reasonable to request that details as, but not limited to, the examples above should feature in a CMP, including how they will be monitored and enforced, and these details should be included within planning conditions should this Application be granted.

KEY:  
 ----- APPEAL SITE  
 ----- OTHER LAND IN THE APPELLANT'S CONTROL  
 ----- PROPOSED COMPENSATORY HABITAT

NOTES:  
 1. All boundaries and locations are indicative only and should not be scaled.

KEY  
 Application  
 3/2022/0500  
 SITE BOUNDARY

NOTES

THE REFERENCE TO "APPEAL SITE" RELATED TO THE IMPACTATION OF SOILS APPEALS. THE DRAWING SHOWS THE RELEVANT FRAGMENT THAT RELATE TO 3/2022/0500

PLANNING APPLICATION  
**A**

PROJECT:  
 LAND OFF OLD ROAD, CHATBURN, LANCASHIRE

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 APPEAL SITE

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