



Appeal Decision

Inquiry held on 12, 13 and 14 March 2013

Site visit made on 14 March 2013

by Clive Sproule BSc MSc MSc MRTPI MIEnvSc CEnv

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 April 2013

Appeal Ref: APP/T2350/A/12/2176828

Land off Chatburn Old Road, Chatburn, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by J-J Homes LLP against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2011/0025, dated 22 December 2010, was refused by notice dated 10 February 2012.
 - The development proposed is outline planning application for residential development (ten dwellings).
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application for residential development (ten dwellings) at land off Chatburn Old Road, Chatburn, Lancashire in accordance with the terms of the application, Ref 3/2011/0025, dated 22 December 2010, subject to the conditions in the attached schedule.

Application for costs

2. At the inquiry an application for costs was made by J-J Homes LLP against Ribble Valley Borough Council. This application will be the subject of a separate Decision.

Procedural matters

3. An executed revised unilateral undertaking pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been provided.
4. The application was made in outline, with matters concerning appearance, landscaping, layout and scale reserved for determination at a later stage.

Main Issue

5. This reflects the Borough Council's reason for refusal and is the effect of the development proposed on mineral reserves and quarry operations.

Reasons

The effect of the development proposed on mineral reserves and quarry operations

6. The Borough Council Officer's report on the proposal concluded that the development would not have a significant detrimental impact on residential amenity, visual impact or highway safety and recommended that the

application be approved. It also noted that Lancashire County Council, as mineral planning authority (MPA), withdrew its objection in principle to the scheme once further information had been supplied by the applicant.

Policy

7. The Borough Council's reason for refusal refers to former national policy within Minerals Policy Statement 1 – *Planning and Minerals*, and extant development plan Policy CS1 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD – *Managing our Waste and Natural Resources* – February 2009 (CS).
8. Policy EM 7 of *The North West of England Plan Regional Spatial Strategy to 2021* (RSS) states that, amongst other things, plans and strategies should safeguard mineral resources from other forms of development. CS Policy CS1 was adopted after the publication of the RSS. It seeks the identification and conservation of mineral resources in Lancashire that have an economic, heritage or environmental value. CS Policy CS1 also seeks mineral resources with potential for extraction to be identified as Mineral Safeguarding Areas and protected from permanent sterilisation by other development.
9. Current national policy within the National Planning Policy Framework ("the Framework") includes paragraph 144, which is unambiguous that planning decisions should give great weight to the benefits of mineral extraction. It also states that local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas where they might constrain potential future use for these purposes. This reflects Framework paragraph 143, which notes that in preparing Local Plans, local planning authorities should define Mineral Safeguarding Areas and adopt policies that protect mineral resources of local and national importance from needless sterilisation by non-mineral development. Consequently, the aims of the CS are consistent with the Framework in relation to protecting mineral reserves from sterilisation due to other forms of development.
10. Inquiry Document 5 (ID-5) indicates the appeal site to be approximately 100m from, and to the east of, the nearest face within Lanehead Quarry. This is operated by Hanson Cement, and a cement kiln is located at the western end of the quarry. Lanehead Quarry forms part of a mineral extraction void that includes the neighbouring Bankfield Quarry, which is operated by a different company. The Borough Council has confirmed that the CS key diagram identifies Lanehead Quarry as a Mineral Safeguarding Area due to the strategic significance and economic value of its reserves. This includes rock in the area of the quarry that is closest to the appeal site.
11. Rock deposits of differing grades are blended during the cement production process. Consequently, the rate at which deposits are used will vary across a quarry of this type. Indeed, rock from more than one quarry may be used to feed a cement kiln. In this instance, Hanson Cement draws rock in from Bellman Quarry to the south. A number of fields, Chatburn Road, a railway and other development lie between Bellman Quarry and the combined void of Bankfield and Lanehead Quarries. Hanson Cement has confirmed that cement production requires over 27,000 tonnes of limestone per week, which is extracted by blasting rock deposits within the quarries. Reserves within Lanehead Quarry are estimated at 25 years, with a site life of 45 years for Lanehead and Bellman Quarries when taken together.

Sterilisation

12. Sterilisation is defined within the CS glossary as the prevention of possible mineral exploitation in the foreseeable future. However and as noted above, the specific wording of CS Policy CS1 is that Mineral Safeguarding Areas will be protected from permanent sterilisation by other development. The Borough Council highlights that the context of the policy would include direct or indirect sterilisation of mineral reserves.

Blasting

13. Blasting within Lanehead Quarry involves a range of explosive charges, also referred to as Maximum Instantaneous Charge (MIC) rates. Larger MIC rates are indicative of production blasting, with much lower MICs used for development work. Production and development charge rates are typically in the region of 130kg and 7.5kg MIC respectively. Nonetheless, in recent years charge rates have been as high as 153kg MIC, and there have also been intermediate blasts with charge rates of 30, 40 and 75kg MIC.¹
14. Development blasts can include the shaping of benches, creating roadways, stabilising faces, and dealing with difficult ground. A development blast may only yield 4,000 tonnes, which would be 10-15% of a typical production blast.
15. ID-7 refers to Government guidance in regard to blasting, including advice on possible planning conditions within Mineral Planning Guidance 14, which refers to a possible peak particle velocity (PPV) limit of 6 or 10mm/s in 95% of all blasts over a specified period of time when measured at vibration sensitive buildings, with no single blast over 12mm/s.
16. Planning conditions for Lanehead Quarry (permission ref nos. 3/96/772 & 3/96/773) allow a maximum vibration of 6mm/s in 95% of blasts, at locations that include at a point on Chatburn Old Road outside the nearest residential property to the location of the blast. Evidence produced by the appellant confirmed that people can become aware of blast induced vibration at levels around 0.5 mm/s. To reduce the potential for complaints, the current operators of Lanehead Quarry have recently been designing blasts to produce a mean PPV of 2mm/s.

Reserves in the vicinity of the appeal site

17. An Environmental Appraisal was produced by the appellant in July 2011 between the submission and determination of the application. However, its conclusions were based on quarry working moving away from the appeal site. In December 2011 the operator confirmed that the next area of high grade limestone to be worked would be approximately 200m from the appeal site.²
18. It is clear that the Horrocksford reserve block, in the south east corner of Lanehead Quarry, is important to Hanson Cement's future operations. On-site observations in this part of the quarry were of development scale blasting. Exchanges during the inquiry confirmed that there will be both development and production blasting in the area of the quarry's eastern face and Horrocksford Reserve. However, confirmation was not provided of a timescale for blasting on the eastern face during the next 45 years. This blasting would

¹ Data provided within ID-3

² E-mail dated 6 December 2011 in Appendix 5 of Mr Millmore's proof of evidence

be shallow and at 100-200m from the proposed development. Inquiry documentation clearly shows this relationship and other dwellings in Chatburn that are also close to the Horrocksford Reserve.

19. Attention has been drawn to consultation responses from the MPA. Initially, in February 2011 and on the basis of the information supplied at that stage, the MPA objected to the proposal due to the need to safeguard mineral resources from sterilisation. This position was reiterated in March 2011 and if planning permission were to be refused, the MPA offered to defend their position at appeal. The MPA changed its position in October 2011, but noted that additional housing in such close proximity to the quarry would increase the potential for complaints.
20. It was highlighted that this changed stance was based on the Environmental Appraisal's assumption that quarrying activity would be moving away from the appeal site. However, the MPA confirmed its position with reference to its own records in January 2012 prior to the determination of the application, noting any further working would be "...at least 200m..." from the appeal site.
21. Further contact between the Borough Council and the MPA occurred in the period prior to the inquiry. Following its full consideration of the proximity of remaining reserves to the appeal site (and having been provided with information from Vibrock), the MPA has confirmed its view to be that if reserves in the eastern face could not be worked for cement production, the loss would not be significant.³
22. The MPA's response in ID-8 does not contain an assessment of the quantity or quality of the limestone in the reserve. Borough Council evidence includes Mr Johnson's Appendix DBJ/12, which is a map entitled "...Plan of area in which potential mineral reserves may be sterilised...". It shows the appeal site and the quarry, along with an 'arc' drawn to the west of the appeal site. This conclusion regarding the possible extent of sterilisation is based on current production blasting operations within the quarry continuing. Blasts using a typical 130kg MIC within the arc area would result in vibration levels at the appeal site well in excess of the relevant planning conditions.⁴
23. Working within the 'arc' would provide approximately 382,000t of rock. This would comprise of 180,000t of rock within the arc, and 200,000t of rock at lower levels outside the arc that its removal would facilitate. These are within currently permitted reserves, and the appellant highlights this to be approximately 1% of the reserves in the Lanehead and Bellman Quarries. A further 88,000t would be released by working the arc if the desired deepening to minus 31m AOD were to receive planning permission.⁵

Effects of blasting rock on the eastern quarry face

24. The appellant was candid regarding the difficulty that it had in procuring expert advice on blasting vibration due to the most experienced consultants having possible conflicts of interest. Nevertheless, the Miller Goodall Environmental Services report was written by an accredited environmental professional, and while any contact with the quarry operator may have been limited, the inquiry

³ ID-8

⁴ Section 6 of Mr Johnson's proof of evidence

⁵ These tonnages are confirmed within ID-6

- provided the opportunity for evidence (and the appendices to it) to be tested within the context of material presented during the proceedings.
25. This demonstrated that the appellant's vibration evidence does not address impacts from blasting on the eastern face in closest proximity to the appeal site. Also, it is only in ID-1 that the appellant raises the possibility of decking for working the mineral closest to the appeal site. While the appellant may defer to Mr Johnson's expertise, it is Vibrock's expertise that is provided in the appendix to ID-1, and this clearly indicates that alternative blasting strategies can be adopted where received levels of vibration are predicted to exceed the relevant criteria.⁶
26. Hanson Cement's statement to the inquiry did not suggest that a technical fix was neither possible nor practical, but noted "*...As complaints/contacts relate to perceptions at a low vibration level, not breaches, the introduction of new housing closer to the site could result in more blasts to reduce impact, but that in turn, (due to the perception being at low vibration level) could simply result in more complaints...*".⁷ I shall return to the matter of complaints below.
27. Exchanges during the inquiry confirmed that it would be possible to work the reserves within the arc using differing blast regimes. Evidence includes an indication of varying charge rates that could be used within the arc to meet consented vibration levels. These would be, for example, 84kg MIC at 147m from the indicative nearest house within the appeal site and less toward the quarry's edge.⁸
28. Blast regimes could include, for example, smaller and 'double-deck' charges (where a charge column is split by inert material), more complex decking strategies and pre-splitting.⁹ Mr Young confirmed that it was quite normal for the company to switch to decked production blasts if it was considered to be necessary, but it was also highlighted that blasts could not all be of a 'development' scale. As noted above, intermediate charges with MICs that are neither associated with development nor full production blasts have occasionally been used at Lanehead Quarry.
29. On the basis of the evidence presented in this case, along with the nature of the quarry and the method of working it, there is no reason to doubt that a blasting regime could be designed to extract rock within the arc, while still adhering to conditions attached to the quarry's planning permission. Indeed, it is apparent that the quarry operator may adopt modified blasting strategies in other locations where residential properties are closer to future workings, such as Bold Venture Villas. Although the operator's ownership of these dwellings could enable them to be vacated, it is not certain that the mineral in close proximity to the dwellings would be worked in such conditions.
30. Conversion of The Pendle Hotel for residential and commercial uses was underway during the inquiry. Part of the building was previously used for accommodation, which would have been a source of potential complaint if quarry operations had resulted in blasting close to the hotel. In this respect, it is clear that the circumstances of The Pendle Hotel differed from the current greenfield appeal site.

⁶ Paragraph 6.1.16 of the Appendix to ID-1

⁷ From paragraph 16 of ID-12

⁸ Appendix DBJ/6 to Mr Johnson's proof of evidence

⁹ Paragraph 6.1.16 of the Appendix to ID-1

31. In contrast to the appeal scheme, the proximity of the former Pendle Hotel to the quarry did not result in refusal of the planning permission that has enabled the residential conversion. Nor have concerns been raised regarding the proximity of dwellings to works associated with the current application to deepen Lanehead Quarry. Also, extraction in Bellman Quarry is expected to involve blasting with a 100m stand-off to the nearest dwelling, which is considerably closer than the houses proposed in the appeal scheme.

Complaints

32. The Borough Council's Statement of Case and Mr Johnson's evidence concerned the ability of the quarry operator to meet conditioned vibration levels. However, Mr Young confirmed that in Hanson Cement's view, sterilisation in this case is more related to perception and feedback from local residents, rather than potential breaches of limits specified in planning conditions. This was noted to apply to reserves on the eastern quarry face as well as in other locations that would be in close proximity to potential sources of complaint. Given the strategic scale and nature of the operations at Lanehead Quarry, any other potential operator of the site would be likely to have the same concerns regarding the possibility of complaints as those expressed by Hanson Cement.
33. During the inquiry the main parties sought to agree on the number of complaints received in relation to the Lanehead Quarry operations. The quarry operator has procedures in place, including those associated with liaison committees, to address public concerns and potential sources of complaint. Nevertheless, Environmental Health Officers at the Borough Council have logged around 247 complaints since 2000 in relation to the cement works and the quarries adjacent to the appeal site. Of these, inquiry witnesses for the Borough Council and appellant found that 17 and 14 complaints respectively were in relation to quarrying operations at Lanehead Quarry.¹⁰ Neither the exact contexts for these Lanehead quarrying related complaints, nor indeed whether they were justified, are known.
34. No objection to the appeal scheme was received from the Borough Council's Environmental Health Officer. Even so, the complaints record referred to above does not address housing on the appeal site, nor does it cover a period with working on the eastern face. There is agreement that complaints from blasting are likely with vibration of 6mm/s at 95% confidence levels and a mean PPV of 3mm/s (and research referred to indicates that complaints can occur from a PPV of 1.5mm/s¹¹).
35. Production blasts on the eastern face in the range of 100-150kg MIC (and typically 130kg MIC) are predicted to cause vibration levels at the appeal site that would lead to complaints. The remaining reserves on the eastern quarry face, and the typical scales of rock extracted from blasts in relation to MIC, are referred to above. Reducing the charge rates and increasing the number of blasts for works within the arc would provide a means of reducing vibration experienced at the appeal site. Charge rates of 66kg MIC at 130m and 84kg MIC at 147m, up to two benches from the surface, would be expected to comply with the quarry's planning conditions in relation to vibration.

¹⁰ ID-21 (following ID-11)

¹¹ Within paragraph 9.4 of the Miller Goodall report in Appendix GH27 of Mr Hughes' proof of evidence

36. The Council highlights appellant evidence that indicates vibration from 18 intermediate scale blasts (of 66kg MIC) on the eastern face would be likely to result in complaints, and these could result in permanent in-direct sterilisation. However, any loss of amenity associated with the working of the eastern face would reasonably be expected to be within a relatively short period during the long term development of the quarry. In this respect the 'permanent indirect sterilisation' would result from decisions taken by the operator of the quarry.
37. The exact timing of further working on the eastern face is yet to be known. The quarry operator is under no obligation to change its blasting regime to work the mineral within Lanehead Quarry. However, the mineral has value, and with careful management it is evident that extraction is possible within the terms of the relevant planning conditions to avoid 'permanent in-direct sterilisation'.
38. Possible legal action resulting from complaints at another of the company's sites was referred to, and that the possibility of such action could result in sterilisation of reserves at Lanehead Quarry. However, it has not been shown that the circumstances of the possible action at the other site, and any associated effects on amenity, are comparable to matters in relation to the appeal scheme.
39. Evidence has confirmed that commercial blasting is planned, and for the most part, its effects are predictable and controllable. The resulting possible effects would reasonably be expected to be known to people who choose to live in close proximity to a facility of the scale and potential extraction timescale of Lanehead Quarry. People who spoke at the inquiry confirmed this. In respect to blasting, any possible loss of amenity can be judged and actively managed within the context of the possible causes.
40. Moreover, in this case such effects have resulted in the arc area of potential mineral reserve sterilisation set out within the Borough Council's evidence. Any such area would be clearly defined within the context of the blasting regime adopted by the quarry operator, and it has not been shown that it would be uneconomical or impractical for the existing quarry operator to avoid the level and nature of complaints that are of concern to it.

Conclusion on the main issue

41. The MPA would have known that the Borough Council refused to grant planning permission on the basis of conflict with CS Policy CS1. However, ID-8 has not fully explained the MPA's position with reference to adopted planning policy, including providing a clear view as to whether mineral would be sterilised. While this inevitably reduces the weight that can be attributed to its lack of objection, the appellant's estimate in closing submissions that the rock in the arc area amounts to around 1% of the reserves was not challenged.
42. Lanehead Quarry retains reserves of workable and economically valuable mineral on the eastern face of the quarry in close proximity to the appeal site. Development of the appeal site would require the quarry operator to consider extracting mineral on the eastern face of the quarry through a blasting regime that would differ from typical production blasts in other parts of the quarry.
43. As noted above, it is evident that if the appeal scheme were to be developed, with careful management it should be possible to commercially extract mineral on the eastern face of the quarry, while both meeting the relevant planning

conditions regarding blasting vibration, and successfully addressing the potential for complaints to be made. As such, there would be no 'permanent in-direct sterilisation' of reserves in the quarry.

44. Evidence in this case indicates that the appeal proposal would conserve economically valuable mineral with potential for extraction on the eastern face of Lanehead Quarry. It would not constrain potential future use of the mineral to result in needless sterilisation that would be permanent (or otherwise). Accordingly, the appeal proposal complies with the relevant parts of CS Policy CS1, RSS Policy EM 7, and national planning policy within the Framework in relation to facilitating the sustainable use of minerals.

Other matters

45. The development plan for this area includes the Ribble Valley Districtwide Local Plan – adopted June 1998 (LP). LP Policy G1 is permissive of development proposals that would provide a high standard of design and landscape quality, unless it would adversely affect the amenities of the surrounding area. Criteria within Policy G1 seek, amongst other things, for development to: provide a safe access for the type and scale of traffic generated, and to be appropriate in relation to safety, operational efficiency, amenity and environmental considerations; not damage any sites of nature conservation importance; and, be sympathetic to existing and proposed land uses. These objectives are consistent with the Framework *Core planning principles* that: development should always seek to secure high quality design and provide a high standard of amenity for existing and future occupiers of land and buildings; and, contribute to conserving the natural environment.
46. The appeal site is on a section of Chatburn Old Road that is several hundred metres long, running from the junction with Ribble Lane to fencing that delineates the boundary of the quarry and the void within it. Chatburn Old Road provides access to existing housing around the junction. These dwellings include a number of short terraces of some age that face toward the junction. Beyond these older buildings, more recently constructed detached houses extend along the southern side of Chatburn Old Road toward the appeal site. Chatburn Old Road is narrow, only having a centre line toward the junction. Vehicle turning opportunities are limited, especially towards the quarry end of the road, which has a vegetated former landfill on the northern side of the highway and the appeal site to the south.

Highway safety

47. In regard to the appeal scheme, the Highway Authority has no concerns regarding: on-street parking activity; the capacity of highways to accommodate the additional traffic associated with the dwellings proposed; or, the proposed access onto Chatburn Old Road.
48. The historic development layouts around the junction with Ribble Lane result in parking along Chatburn Old Road. While this restricts the carriageway width on an already narrow road, the appeal site is some distance from the junction and the development around it, and would not be expected to add to parking along Chatburn Old Road. Access to the appeal site would be set apart from other residential development, with no other residential accesses between it and the end of the road at the quarry boundary. Given the circumstances and layout of Chatburn Old Road and the appeal site, the volumes and types of traffic

- associated with the proposed development would not reasonably be expected to exceed the capacity of highways in the locality, and the proposed access would provide adequate visibility for vehicles entering a highway of this type.
49. However, the Highway Authority did have concerns regarding increased traffic at the junction with Ribble Lane. Representations to the inquiry reflected this, highlighting the uses made of the junction and that are relevant to the operation of it. People wait for public transport in this location and use the village store, which is next to the junction. These activities can coincide with rush hour traffic and deliveries being made to the store.
50. Stone walling at this junction is in a position and of sufficient height to restrict the view of car drivers exiting Chatburn Old Road. A revised layout is proposed that would provide a new kerb line to the south of the junction and white lining to the north. This would enable the stop line at the junction to be drawn forward to provide the 2.0m x 20m visibility splay sought for the junction. While this would reduce the width of Ribble Lane at this point, the resulting improvement on current sight lines would benefit all existing and future users of the junction who would otherwise have restricted visibility due to the presence of the stone walling.
51. A traffic survey in support of the current proposal was carried out some time ago. Representations referred to correspondence that suggested a traffic survey may need to be repeated after a certain period of time. The junction concerned is within a settlement in a rural area. Although the survey was carried out some time ago, there was no evidence of a significant change in circumstances having occurred in the interim to suggest that the survey results would be out of date. Nor was it demonstrated that the Highway Authority had misinterpreted the survey results.
52. The proposed junction treatment would align vehicles closer to the centre of the carriageway as they pass the junction. However, the road narrows here and parked vehicles were observed that further reduced the speed of vehicles. While a risk of collision remains, no records of accidents occurring were produced to suggest that this existing arrangement has proved unacceptably hazardous in the past or would do in the future. Although concerns were raised regarding the adequacy of the traffic survey, it is apparent that drivers exercising a reasonable standard of care for their own and other's safety would be able use the roads around the modified junction without the proposed works causing harm to highway safety.

Ecology

53. The application's Ecological Survey and Assessment report indicated that, while a Pipistrelle bat has been recorded within 500m of the proposed development, there is no evidence of protected species within the appeal site or the immediate surrounding area. Unimproved calcareous grassland is present on the appeal site. It is a UKBAP priority habitat and a substantial area is proposed to be retained. Implementing the recommendations of the Ecological Survey and Assessment report would support habitat creation and retention that would benefit wildlife in the locality. Proposed conditions would address both the implementation of the report's recommendations and the protection of trees. As a consequence, the appeal scheme would be unlikely to harm any protected species or their habitats.

Historic Landfilling

54. The historic landfill site that lies on the opposite side of Chatburn Old Road from the appeal site is a wooded area that has well caps associated with ground gas monitoring. Application documentation includes a *Phase 1 Land Quality Assessment* that indicates the potential for landfill gas (and naturally occurring radon to be present). Evidence within the report regarding the age and nature of the landfill, and results of recent gas monitoring, indicates that a planning condition would be an appropriate means of addressing its recommendations.

Noise, Dust and air quality

55. Quarry operations have the potential to produce noise that can carry to residential development even when it occurs deep within a quarry void. Many of the vehicles working within Lanehead Quarry use reversing alarms that reduce their ability to be heard at distance, but other alarms on the vehicles are audible outside the quarry.
56. An internal quarry haul road would be in close proximity to the appeal site. However, given the scale of the quarry and the economics of bulk haulage across it, vehicles using the internal haul road would be expected to be of a non-road going type that would not create 'body slap' when empty.
57. Quarry operations produce dust that can be emitted from the site in certain conditions, and especially in dry windy weather. Existing residents in Chatburn are potential recipients of dust from Lanehead Quarry, as would be residents of the appeal scheme. Planning conditions address the control of dust at Lanehead Quarry and would protect the living conditions of occupiers of the appeal site, as they already do for residents elsewhere in Chatburn.
58. The Borough Council confirmed that although it had raised issues regarding quarry noise and dust in its evidence, they are matters that proper site management could address. Indeed, if a condition were to be imposed regarding noise attenuation measures, the living conditions of occupiers of the development proposed would not be harmed as a result of noise. Both quarry noise and dust would continue to be addressed through planning conditions for the quarry.

Overlooking

59. As an outline proposal with the site access for determination at this stage, if this appeal were to be allowed, the location of windows within the appeal scheme would be confirmed at a later date. Residential development is located around and near to the appeal site and the layout of the development proposed could result in dwellings with aspects over existing residences. However, this is a residential area where a certain degree of overlooking can be expected to occur. Although the appeal site is in an elevated position, there are significant separation distances between the appeal site and surrounding development that would prevent unacceptable levels of overlooking occurring.

Conclusion regarding matters relevant to LP Policy G1

60. In these respects the proposal, including its access, would comply with LP Policy G1 and the relevant Framework *Core Planning Principles* referred to above.

Effects on the economy

61. Paragraph 19 of the Framework indicates that planning should operate to encourage and not act as an impediment to sustainable growth, and significant weight should be placed on the need to support economic growth through the planning system. Framework paragraph 142 is also clear that minerals are essential to support sustainable economic growth and it is important to make best use of them to secure their long term conservation.
62. The appeal scheme would reasonably be expected to contribute to the local economy through expenditure during the construction phase, and then subsequently through the introduction of new households into this area.
63. Modification of the blasting regime at Lanehead Quarry would have some financial implications for the operator of the site. Even so, it has not been shown that these would be unacceptably onerous so as to render the reserves on the eastern face of the quarry unworkable in this regard.

Housing

64. In reaching a recommendation of approval, the Officer's report on the application noted that the Borough Council could only demonstrate a 3.3 year supply of deliverable land for housing and took into consideration the possible revocation of the RSS. Although current estimates on this position differ, it is common ground between the main parties to this appeal that there remains a lack of a 5 year supply of deliverable sites for housing.
65. LP Policy G4 deals with development proposals within named settlements that include Chatburn. The appeal site is immediately outside the Chatburn settlement boundary. LP Policies G5, H2, and H20 deal with development outside settlement boundaries and the appeal proposal would not comply with them. However, the Borough Council recognises that with reference to paragraph 215 of the Framework, the context for these policies has changed and that there is a need for the release of land outside existing settlement boundaries. As such, the appeal scheme falls to be considered in relation to Framework paragraph 49 and the presumption in favour of sustainable development as described by paragraph 14 of the document.
66. Although it is a green field location, given the form of the settlement in this area and the physical constraint of the Lanehead Quarry void to the west, the development of ten dwellings on the appeal site would appear as a logical addition to Chatburn, while maintaining a degree of openness along Chatburn Old Road. The proposed dwellings would be in a location with easy access to local services, and public transport to other settlements and services. Suggested planning conditions would address renewable or low carbon energy sources and the Code for Sustainable Homes. As such, it would be a sustainable form of development.

Unilateral Undertaking

67. Planning obligations should only be sought where they meet the three tests within paragraph 204 of the Framework, which are that the obligation would be: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to it. These reflect the tests of a planning obligation within Regulation 122 of

Statutory Instrument 2010 No.948, The Community Infrastructure Levy Regulations 2010 (CIL).

68. The executed unilateral undertaking, dated 25 January 2013, makes provision for affordable housing and a School Contribution. Three of the ten dwellings would be affordable homes. LP Policy H20 is only permissive of housing outside settlement boundaries that would be 100% affordable. However, paragraph 49 of the Framework is clear that where a local planning authority cannot demonstrate a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date.
69. The Framework seeks to boost significantly the supply of housing, including affordable homes. In comparison to the LP, the Borough Council's Affordable Housing Memorandum of Understanding is a much more recent document which aims to ensure that there are sufficient homes for local people in housing need. It notes this to be a key priority of the Sustainable Community Strategy 2007-2013. The Memorandum seeks housing development of three or more units outside Longridge and Clitheroe to provide 30% affordable units. The appeal scheme would provide this through the unilateral undertaking.
70. Justification for the schools contribution was provided in a letter from Lancashire County Council dated 31 January 2011, which identified a shortfall in primary school place provision. The sum requested is noted to have been recalculated in January 2013. The appeal scheme would result in an additional demand for school places. The £48,855 School Contribution reflects the sum sought by the County Council and reported to the Borough Council in the Officer's report on the planning application.
71. The planning obligations would be directly related to the development proposed, and fairly and reasonably related in scale and kind to it. They are necessary to make the development acceptable in regard to local and national planning policy and accordingly, significant weight is attributed to the unilateral undertaking.

The planning balance

72. References have been made to previous planning decisions regarding the appeal site. However, each application and appeal is determined on its own merits within the context of the policies that pertain to it. Therefore, previous decisions do not set a precedent in relation to this case, but all matters that are relevant to its determination have been taken into account.
73. In regard to the main issue, the appeal scheme complies with CS Policy CS1, RSS Policy EM 7 and the Framework, including paragraphs 142 and 144, in relation to facilitating the sustainable use of minerals. It is the Borough Council's view that when the seventh bullet point of Framework paragraph 144 is applied greater weight should be given to the safeguarding of mineral in the quarry, than a need for housing. However, in this case the proposed development would not result in sterilisation of the mineral reserve.
74. Consequently, in relation to paragraph 14 of the Framework and the presumption in favour of sustainable development, specific policies within the Framework (including in regard to facilitating the sustainable use of minerals) do not indicate that development should be restricted in this case. The benefits of the scheme include housing provision, a proportion of which would be affordable homes, and benefits to the local economy. In this case, there is no

conflict with Framework minerals policy, and determination of reserved matters would ensure that the development would be of high quality. When considered against the policies in the Framework taken as a whole, no adverse effects have been identified that significantly and demonstrably outweigh the benefits of the appeal scheme.

75. All matters raised in representations regarding this case have been taken into account. Although the appeal scheme conflicts with a number of development plan policies, it complies with others, including the CS policy referred to in the Borough Council's reason for refusal. The appeal scheme would be a sustainable form of development, and considerations in this case weigh heavily in favour of the appeal proposal to indicate that planning permission should be granted for the development proposed.

Conditions

76. A scheme of conditions agreed between the appellant and the Borough Council were submitted to the inquiry. These conditions have been considered against the guidance in Circular 11/95 – *The Use of Conditions in Planning Permissions*.
77. In the interests of the character and appearance of the locality and to protect local living conditions I shall impose conditions in relation to reserved matters. For the avoidance of doubt and in the interests of proper planning, a condition shall be imposed regarding the plan approved in relation to the site and its access.
78. In the interests of protecting the living conditions and safety of the occupiers of the development proposed, conditions shall be imposed in relation to noise and matters highlighted within the application's *Phase 1 Land Quality Assessment*. To protect local living conditions and the water environment, and provide a sustainable form of development, a condition shall be imposed in relation to surface water drainage.
79. In the interests of providing a sustainable form of development, conditions shall also be imposed in regard to the use of renewable or low carbon energy, the Code for Sustainable Homes and implementing the recommendations of the proposal's Ecological Survey and Assessment. In the interests of the character and appearance of the locality and the natural environment, a condition shall be imposed in relation to the protection of trees. In the interests of highway safety a condition shall be imposed requiring junction improvement works on Chatburn Old Road/Ribble Lane. To protect the character and appearance of the area, local living conditions and highway safety, a condition shall be imposed requiring a Construction Method Statement.

Conclusion

80. For the reasons above, I conclude that the appeal should be allowed.

C Sproule

INSPECTOR

SCHEDULE OF CONDITONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters"), which shall include details of boundary treatment, parking and manoeuvring arrangements for vehicles, and a contoured site plan showing existing features along with the proposed floor slab and road levels, shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in regard to the provision of the access to the site area in accordance with the following approved plan:

D1350/PL01 Rev. b – Proposed Site Layout
- 5) No development shall take place until a scheme, that includes an implementation timetable, to secure at least 10% of the energy supply of the development hereby permitted from renewable or low carbon energy sources has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and implementation timetable, and the approved measures to secure at least 10% of the energy supply of the development hereby permitted from renewable or low carbon energy sources shall be retained as operational thereafter.
- 6) No development shall take place until a scheme for surface water drainage and attenuation for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development hereby permitted, has been submitted to and approved in writing by the local planning authority. The scheme shall include details for its implementation, management and maintenance. The scheme shall be implemented prior to the completion of the development hereby permitted, and thereafter the surface water drainage and attenuation for the site shall be managed and maintained in accordance with the approved details.
- 7) No development shall take place until a scheme for the implementation of the recommendations of the *Ecological Survey and Assessment*, dated September 2010 [ERAP Ltd ref: 2010_175] has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation, and the scheme shall be implemented as approved.
- 8) Any application for the approval of reserved matters shall include details of noise attenuation to be incorporated into the design of the development. The approved noise attenuation measures shall be implemented prior to the first occupation of the dwellings hereby

permitted and the noise attenuation measures shall be retained thereafter.

- 9) Prior to commencement of any site works associated with the development hereby permitted, including delivery of building materials and excavations for foundations or services, a scheme for the protection in accordance with British Standard 5837 [Trees in Relation to Construction] of all trees identified [T1-T18 inclusive] in the Tree Check Ltd arboricultural/tree survey, dated 28.9.10, shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of tree protection measures and a tree protection monitoring schedule. The approved scheme shall be implemented before any equipment, machinery or materials are brought onto the site for the purposes of the development hereby permitted, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

None of the trees identified [T1-T18 inclusive] in the Tree Check Ltd arboricultural/tree survey, dated 28.9.10, shall be cut down, uprooted or destroyed, nor shall any of these trees be topped or lopped without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 [Tree Work].

- 10) No part of the development hereby permitted shall be occupied until the junction improvement works detailed on drawing number D1350-04 Rev.C have been implemented in full.
- 11) No development shall take place until a scheme for the implementation of the recommendations of the *Phase 1 Land Quality Assessment*, dated December 2010 (ref: D1350-R-01 rev1) has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation, and the scheme shall be implemented as approved.
- 12) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

- 13) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Giles Cannock

He called
David Johnson
BSc MIExpE AMIQ
Martin Millmore
BSc (Hons) DipTP
MRTPI FGS

Instructed by Ms D Nuttall, Solicitor for Ribble
Valley Borough Council

Managing Director, Vibrock Limited

Principal, The Mineral Planning Group

FOR THE APPELLANT:

Hugh Richards

He called
Gary Hughes
BSc MSc FIMM CEng
Michael Gee
BA(Hons) MRTPI

Instructed by Janet Dixon Town Planners Limited

Director, Hughes Craven Limited

Janet Dixon Town Planners Limited

INTERESTED PERSONS:

Paul Whittaker
Dr Martin Seddon
David Parkinson
Gary Young
Lynda England

Chatburn Parish Council
Local resident
Local resident
Hanson Cement
Local resident

INQUIRY DOCUMENTS

- 1 Rebuttal Proof of Evidence of Gary Hughes, with Appendix entitled "Assessment of the Environmental Impact of Blasting at Bonemill Quarry, Ryder Point, Derbyshire" by Vibrock Limited, dated 08.12.11
- 2 Letter of rebuttal from Millar Goodall Environmental Services, dated 2 March 2013
- 3 An e-mail, dated 5 March 2013, from SLR Consulting to Mike Gee and associated spreadsheet containing date/time/MIC/charge weight for all blasts at Lanehead Quarry during 2011, 2012 and 2013
- 4 Drawing number R99/36 – a section indicating Lanehead Quarry face positions in August 2012
- 5 Drawing number R99/35 – a plan view of part of Lanehead Quarry that includes indications of proposed final face positions and the appeal site
- 6 An e-mail, dated 6 February 2013, from SLR Consulting regarding tonnages of rock that would be affected by not working within 'the arc area' depicted in Mr Johnson's Appendix DBJ/12
- 7 E-mails including one from Hanson to the Borough Council, dated 6 December 2011, regarding the application and statements made in relation to it
- 8 E-mails including one from Lancashire County Council, dated 5 March 2013 regarding the effect of the appeal scheme on workable reserves at Lanehead Quarry
- 9 Policy CS1 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD – Managing Our Waste and Natural Resources – February 2009
- 10 Statement of Mr Whittaker – Chatburn Parish Council
- 11 Analysis of complaints received by Ribblesdale Borough Council 2000 to 2011 inclusive
- 12 Statement of Mr Young – General Manager (Ribblesdale and Padeswood) Hanson Cement
- 13 Policy EM 7 of The North West of England Plan Regional Spatial Strategy to 2021
- 14 An application stage consultation response, dated 22 February 2011, by Lancashire County Council in regard to highway matters
- 15 E-mails between Councillor Scott and Lancashire County Council regarding traffic survey results for Ribble Lane
- 16 A sheet with a table and graphs entitled Appendix JDP M: Lancashire County Council Traffic Survey Results, March 2011
- 17 The proposed route for the site visit in Chatburn
- 18 E-mails including between the appellant and Hanson Cement, dated 15 & 17 September 2010, 23 & 28 October 2010, 9 December 2010 and 15 December 2011
- 19 Location map for the start of the site visit at the cement works/quarry
- 20 E-mail and location map from Lancashire County Council, dated 13 March 2013, regarding the siting of the monitoring point for the traffic survey
- 21 E-mail from Mr Millmore to the Borough Council side, dated 14 March 2013, regarding discussions with the appellant side on the number of complaints received by the Borough Council in relation to operations at Lanehead Quarry
- 22 The local planning authority's response to the costs application