

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY BAXTER GROUP LIMITED

LAND OFF BOURBLES LANE, PREESALL, LANCASHIRE

OPENING ON BEHALF OF THE APPELLANT

Introduction

1. Lancashire County Council (“LCC” or “Council”) is the relevant Minerals Planning Authority. The application was considered at the LCC’s Development Control Committee on 15th October 2025 and refused.
2. The Decision Notice¹ cited two reason that can be summarised as:
 - (i) *Unacceptable impacts on highway safety that cannot be adequately mitigated in conflict with national and local policy,*
 - (ii) *Because of the proximity to residential properties the development would have unacceptable noise and dust impacts that could not be satisfactorily mitigated contrary to national and local policy.*
3. A Case Management Conference was held on 3rd February 2026. The Summary Note following the CMC at Paragraph 6 identified the following main issues in the appeal:
 - (a) The need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County.
 - (b) The effect of the proposed development on highway safety and the free flow of traffic.

¹ CD 6.01.

- (c) The effect of the proposed development on the living conditions of the occupants of nearby residential properties with particular regard to air quality, dust and noise.

Site Description

4. The Appeal Site (“AS” or “Site”) is within Preesall Parish which lies within the Wyre Council’s administrative area and is located approximately 1.5 km to the east of the village of Preesall. The AS is approximately 20.68 ha of mainly arable and general agricultural land with some small lakes and a large fenced “*duck breeding pen*”.

Public Rights of Way

5. The PRoWs will be retained in their existing locations throughout the operation of the quarry and restoration phases and will be fenced during the quarrying and restoration phases of the proposal. Designated crossing points will be installed where quarry vehicles will need to enter the quarry site from the mineral extraction areas.

Mineral Reserves

6. Some 513,000 tonnes of sand and gravel is present across the Site that is proposed to be extracted.
7. These sand and gravel aggregate products will be sold into the local Lancashire market over a period of 4 – 5 years assuming an output of 100,000 tonnes per annum.
8. The proposed restoration scheme is to secure the reversion of use to agriculture with some potential for leisure development in a future application. The restoration phase of the proposals may take a further 2 years to complete to return the Site back to agricultural land at pre-development levels. The imported inert fill materials will be approximately 220,000 m³.

Overview of the Proposals

9. The processing plant will be located on an open area located within the central part of the AS. A direct access is proposed off the B5270 Lancaster Road for both incoming and outgoing traffic and the design of the new access will ensure that all traffic leaving the Site will have to turn left onto Lancaster Road.

10. The development will take place in phases to extract minerals and restore the Site in an efficient and timely manner to minimise disturbance. The sand and gravel extraction within each proposed phase of working will be excavated in a series of “*campaigns*” over approximately 4 – 6 weeks mainly during the Spring through to Autumn. The Site development will be progressed over six defined phases of operation. A detailed description of the phasing and quarry operations is contained in the evidence of SR.

Main Issues

(a) The need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County

11. Paragraph 226 of NPPF requires Mineral Planning Authorities to plan for a steady and adequate supply of aggregates. In the context of sand and gravel, this is one of “*at least 7 years*”.
12. As is developed in the evidence of LT, the Statutory Development Plan is considerably out-of-date. The most reliable information regarding sand and gravel reserves, land bank and future needs are contained within (i) the Local Aggregate Assessment 2023² that used 2022 data and (ii) the North West Aggregate Working Party Annual Monitoring Report 2025³ that uses 2024 data. The asserted land bank of sand and gravel for Lancashire is stated to be around 4.3 million tonnes.
13. However, in reality the position is markedly different. Within Lancashire four quarries are relied upon, two of which are inactive. Runshaw Quarry holds the majority of the permitted reserves: 4.1 MT of the 4.3 MT referred to. However, this site is inactive with conditions on the grant of the appeal permission at Runshaw Quarry requiring the mineral operations in July 2026. No mineral extraction operations have taken place save for those sufficient to amount to a lawful commencement of development. Once Runshaw Quarry is eliminated from the land bank, there would only be 0.2 MT of permitted reserves.
14. The OR⁴ at Paragraph 70 stated:

² CD 7.05.

³ CD 7.07.

⁴ CD 6.02.

“... the proposal would meet a pressing and demonstrable need for new sand and gravel reserves in Lancashire ...”

15. The Statement of Case of LCC raised no issues seeking to qualify the “*pressing and demonstrable need*” acknowledged in the OR.
16. RS on behalf of LCC in the Planning PoE at Section 7 put forward a case in terms of the availability of alternative sources of supply. The Appellant rejects such a contrived case, and this is dealt with in the Rebuttal of LT.

Inert Waste

17. As stated above, the Appellant is proposing to import approximately 220,000 m³ of inert restoration material. The capacity within the AS would be a sustainable destination for the central and northern areas of Lancashire with about 30% of the inert waste to be placed in the AS sourced from the Appellant’s own operations.

(b) The effect of the proposed development on highway safety and the free flow of traffic

Introduction

18. The planning application was supported by a Transport Statement that was prepared by TLA (December 2024).
19. As will be familiar, Paragraph 116 of NPPF states:

“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

20. The evidence of JB demonstrates that the AS would have a safe and suitable access onto the public highway.
21. The existing network already accommodates HGV, buses, motor vehicles, equestrian use, cycles and pedestrians. In absolute terms the traffic generated by the proposal is low and the use temporary. The Council is not proposing improvements, changes or imposing controls over

the existing use or users of the local network. Its case is based on the proposal representing an intensification of use and the proposed access to serve the site being unacceptable.

22. The extent of the highway along Lancaster Road is controversial. JB at Appendix JRB2 puts the adopted highway extent as shown on the official plan provided by LCC to the Appellant onto the topographical survey data for Lancaster Road. The Appellant considers this the best evidence available of the extent of the land controlled by the HA.

Site Access

23. The appeal proposal is for a priority-controlled arrangement with a traffic island to enforce outbound HGV traffic movements to the east.
24. The professional view of JB⁵ is that a 1.2 m x 43 m visibility splay would be suitable for an access predominantly used by HGVs onto a 30 mph road.
25. During the consideration of the application, a reduced X-distance of 1.2 m was agreed to reflect that drivers of HGVs sit much further forward in the cab. The concern expressed by LCC is over the achievable visibility splays at the proposed site access. The Council's case requires the X-distance of 2.4 m and the Y-distance splay of 58 m based on 85th percentile speed on Lancaster Road.
26. The evidence of JB at Appendix JRB7 and shows that a 2.4 m x 58 m visibility splay in both directions is achievable from the access to the edge of the carriageway based on the extent of highway land shown on plans provided to the Appellant.

Lancaster Road

27. HGVs already use Lancaster Road in both directions, forward visibility, particularly for HGV and public transport drivers, is good. As one would currently expect HGV use will occasionally necessitate that drivers, taking into account the existence of wing mirrors and keeping them in. JB notes that there have been no recorded accidents involving two large vehicle types on Lancaster Road and no evidence that HGVs meeting having caused accidents.

⁵ JB PoE para.4.40 18/77.

28. Despite the absence of evidence that there is a legitimate safety or capacity concern, the Appellant proposes:
- (a) A vehicle management scheme for the timing of outbound HGV movements
 - (b) Although JB does not consider that the widening works are necessary⁶ widening is an option.

Signage

29. The Appellant understands that LCC Highways are in favour of the signage in principle but have expressed concern as to the availability of space within the adopted highway to place the signs. JB has expressed the view⁷ that there is sufficient space to provide suitable signage within the highway verge, but this is subject to the same issues relating to highway extent.

The A588 Fold House Farm Bend

30. As noted earlier this road already accommodates HGV traffic with the 2023 survey recording an average of 52 HGV movements on the A588 and no recorded accidents. Approximately half of the development HGV traffic would route via this section of the A588 and therefore an average of 37 daily movements could be expected and the balance route through the A588/cemetery Lane/Park Lane junction.
31. Overall, the evidence demonstrates that:
- (a) The concern that the increase in HGV traffic movements is overstated. Whilst there would be a percentage increase in HGV use, this would remain at a low level of use in absolute terms and limited appropriate mitigation would be of a permanent benefit.
 - (b) A safe and suitable access to the AS can be achieved.
- (c) The effect of the proposed development on the living conditions of the occupants of nearby residential properties with particular regard to air quality, dust and noise**

⁶ JB PoE para.4.54 21/77.

⁷ JB PoE para.4.60 22/77.

Noise

32. The RfR does not appear to have been supported by any independent expert view to the effect that the proposal was unacceptable by reason of noise. Atkins in a Technical Note dated 10 January 2025⁸ responded to the updated noise assessment prepared by Vibrock Limited following the Regulation 25 letter that was plainly not the language of a proposal considered unacceptable.
33. The evidence on noise is provided by RS. A review of the updated Vibrock Limited report is consistent with that contained in the Atkins' Technical Note⁹.
34. The upshot of the development that is the subject matter of this appeal is that:
- (a) Following the proposed alterations to the bunding¹⁰, site noise limits for routine operations (including those at Woodlands) result in site noise levels no more than 10 dB(A) above background noise levels at all receptors. Woodlands is recognised as being of "high" sensitivity and once the mitigation (temporary and then bunding) is in place the amenity of the external areas will be adequately protected
 - (b) Even with the suggested noise limit for short-term temporary operations of up to 70 dB LAeq, 1 hour on advice in PPG (Minerals) are an upper limit and does not mean that noise levels from operations on the AS will be of that magnitude.
 - (c) It also has to be recognised that any noise relating to these temporary operations will take place only over a very limited period. Paragraph 223 of NPPF recognises:

"When developing noise limits recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction."
35. The position of LCC is understood to be that the sole reason for a remaining concern is principally confined to extraction works immediately south of 'Woodlands' during Phase 1, prior to permanent mitigation being in place and that the strategy broadly addresses the Council's concerns on noise.

⁸ CD 4.02.

⁹ See RS PoE para.5.6, 12/27, CD 12.24.

¹⁰ CD 12.23.

36. The R6 Party and local residents remain concerned on the noise issues. The Appellant addresses noise issues in evidence.

Dust/Air Quality

37. Deposition dust is not regulated as a pollutant under any air quality regulations and there are no UK statutory or recommended levels that define the point at which deposited dust causes annoyance or disamenity. Annoyance impacts are typically achieved through conditions with planning permissions or Environmental Permits requiring the implementation of a Dust Management Plan. Paragraph 187 of NPPF is relevant policy advice in this context.
38. Policy recognises that a balance needs to be drawn. It is not the case that any adverse effects are to be prevented or would warrant the refusal of planning permission.
39. The Regulation 25 Request for Further Information was received from LCC¹¹ and supplementary information was subsequently submitted on behalf of the Appellant¹² including a section on air quality including an updated AQA¹³.
40. Whilst there was no separate review of the updated AQA, Atkins addressed the original AQA in advising LCC¹⁴. The Atkins review did not conclude that the proposal would result in unacceptable impacts or significant effects or recommend refusal. It actually recommended that the Applicant be required to prepare a Dust Management Plan to be submitted to LCC for approval prior to the commencement of any works.
41. The response from LCC's Director of Public Health¹⁵ made a number of recommendations. The January 2024 LCC's Public Health Response¹⁶ did not recommend refusal but emphasised the importance of ensuring that any potential risks are dealt with to ensure appropriate mitigation.

¹¹ CD 3.01.

¹² CD 3.02.

¹³ CD 3.06.

¹⁴ CD 2.07 – CD 2.11.

¹⁵ CD 2.02.

¹⁶ CD 2.15.

42. An Environmental Permit controlled by the Environment Agency would be required in order to undertake the infilling operations. No comments or objections were raised in the EA response in relation to dust and/or air quality.

Dust Assessment: Disamenity

43. The Council's case recognises the potential efficacy of a Dust Management Plan to control this issue and following exchange of Rebuttals the concern is expressed to be that dust disamenity effects will occur within at least the first 100m from the activity/boundary.
44. The potential receptors were those specified by LCC in its EIA scoping opinion¹⁷ of August 2022 and comprise the residential properties nearest to the site boundary and are representative of nearby receptors.
45. The dust impact risk takes into account the significant in-design mitigation measures that are to be incorporated within the development. The greatest risk of dust deposition would occur at initial soil stripping and near-surface activities. KH makes the obvious point that the potential for some dust generation from soil stripping and handling activities would be as associated with typical agricultural activities and would be short-lived¹⁸
46. Dust control and mitigation will be part of normal working practices and that dust emissions can be controlled through effective site management. A draft DMP is provided in Appendix KEH 11 informed by the assessment conducted in the evidence. There is nothing unusual or exceptional about the proposed DMP in this particular case and the draft includes provision for regular formal review.
47. Overall, the maximum residual adverse effect predicted during the subsequent extraction, processing and restoration activities in the absence of further mitigation is "*slight*" at Mytex/New England Cottage in the proximity of the as-raised stockpile.

Air Quality

¹⁷ CD 1.10.

¹⁸ KH PoE 5.3.28 38/152.

48. The Vibrock AQA included a PM10 and PM2.5 Assessment. None of the proposed on-site activities involve any abrasive processes that would break the sand into smaller particles. The mitigation that would be proposed to deal with dust mitigation and fugitive dust emissions would also serve to reduce the potential of PM10 and PM2.5 emissions.

Health

49. On the review of the originally submitted Vibrock AQA, Atkins had recommended further consideration of potential impacts associated with respirable crystalline silica (“RCS”). The report to the Planning Committee¹⁹ contained an unfortunate typographical error but it is clear that the Council does not object on health grounds. This is set out in the overarching Statement of Common Ground.
50. The concerns raised by the Rule 6 party concerning air quality and impact on human health is addressed in the Technical Note prepared by Dr Andrew Boroni that appears as Appendix KEH12.

(d) Planning Policy and Balance

Development Plan

51. All components of the statutory development plan were intended to cover the period to 2021 are time expired and significantly more than five years old. The policies do not meet up-to-date guidance nor identify sufficient sites to meet up-to-date needs for sand and gravel. There is no emerging Local Plan.
52. In the view of LT, the “*tilted balance*” is engaged and the policies are “*out-of-date*”.

Need for Sand and Gravel

53. This has been addressed earlier in these submissions and once Runshaw Quarry is removed, the County Council has only 0.2 MT of the permitted reserves.

¹⁹ CD6.02

54. AS LT points out in his evidence²⁰, economic activity is expected to increase during the period 2021-2036, especially as there is an increased housing requirement for an additional 2,824 dpa housing requirement across Lancashire.
55. The majority of quarries currently supplying Lancashire are located in Crewe and Winsford, Cheshire that are about 110 km south of Wyre District²¹.

Waste

56. It is not understood to be in dispute that to achieve a satisfactory standard of reclamation it is necessary to import a quantity of suitable material. What is proposed is the minimum necessary to achieve the restoration objectives.

Planning Balance

57. The Site Allocation and Development Management Policies DPD includes a policy that mirrors the NPPF "*tilted balance*".
58. Therefore, in the application of this policy it is the Appellant's case that the scheme is acceptable and accords with the Development Plan overall. There are no impacts which would "*significantly and demonstrably outweigh the benefits*".
59. The policies cited in the RfR in this case are criteria-based policies that require a judgment on the evidence to determine whether there is compliance.
60. There are positive benefits to be placed in the planning balance. Substantial weight would be appropriate to be given to the sand and gravel when the existing reserves demonstrate a profound shortfall in supply. The only means by which a supply is likely to be brought forward is through planning permissions granted on individual applications.
61. There will be employment and economic benefits associated with nine full-time employees at the Site.

²⁰ LT PoE 20/64 et seq.

²¹ LT PoE para.4.4.6, 23/64.

62. Drawing the threads together, the appeal proposal in the policy context is as follows:
- (a) The Local Plan is out-of-date with no prospect of an emerging Local Plan in the foreseeable future. This is inconsistent with the longstanding exhortation in NPPF for a Plan-led system.
 - (b) Great weight is to be given to the benefits of mineral development.
 - (c) There is a demonstrable and urgent need for the release of mineral reserves within Lancashire.
 - (d) The AS would contribute to the supply by an additional 100,000 tonnes per annum for five years in circumstances where need will increase.
 - (e) The AS is in a sustainable location to serve mineral and waste needs.
 - (f) Concerns in relation to amenity impacts can be appropriately mitigated through planning conditions that prescribe noise limits, and compliance with the DMP.
 - (g) Overall, the appeal scheme is acceptable in accordance with the Development Plan in its entirety, accords with the NPPF and there are no adverse impacts that would *“significantly and demonstrably outweigh the benefits”*.

JOHN BARRETT
Counsel for the Appellant

April 2026