



Appeal Decision

Site visit made on 26 March 2026

by Jean Russell MA FRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2026

Appeal Ref: APP/Q2371/C/23/3332630

Land off Finnington Lane, Hoghton, Chorley

- The appeal is made by Stanworth Agricultural Limited under section 174 of the Town and Country Planning Act 1990 (as amended) against an enforcement notice issued by Lancashire County Council on 3 October 2023.
- The breach of planning control as alleged in the notice is: without planning permission, the winning and working of minerals and their exportation off-site.
- The requirements of the notice are to:
 - (i) Cease all extraction and export of minerals from within the land edged red on plan ref LCC1 attached to [the enforcement] notice.
 - (ii) Within the land edged red on plan ref LCC1...evenly redistribute all stockpiles across the base and sides of the excavation. The regrading works shall ensure that public footpath FP0903012 can be walked along its definitive alignment.
 - (iii) Reduce the width of the access track shown in green within the land edged red on plan LCC1 to a maximum of three metres by removing track surfacing materials. All stone materials recovered from the track shall be deposited in the quarry as part of the works required by 5(ii) above.
 - (iv) Utilise the soils stored in the bunds around the perimeter of the quarry to restore the quarry ensuring that the soils are respread to an even thickness across the entire quarry site.
 - (v) Seed the graded soil surface with an agricultural grass seed mix.
- The periods for compliance with the requirements are one day for step (i), 30 days for steps (ii) and (iii), and 44 days for steps (iv) and (v).
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990.

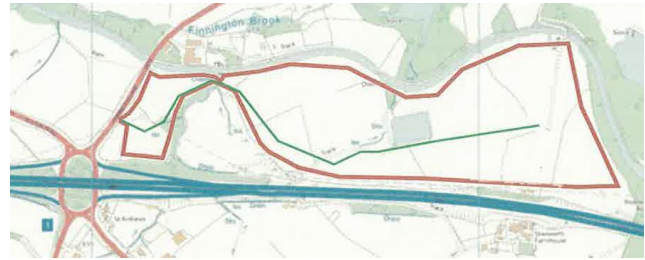
FORMAL DECISION

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting “extraction” from paragraph 5(i) and substituting “winning, working”.
 - Deleting “stockpiles” from paragraph 5(ii) and substituting “stockpiled minerals extracted from the land”.
 - Deleting step 5(iii) in its entirety, and renumbering steps 5(iv) and 5(v) as 5(iii) and 5(iv) respectively.
 - Deleting the text of paragraph 6 entirely and substituting “Within a period of one week from the date this notice takes effect in relation to step 5(i), within a period of four months from the date this notice takes effect in relation to step 5(ii), and within a period of five months from the date this notice takes effect in relation to steps 5(iii) and (iv)”.
2. The enforcement notice is upheld subject to the corrections and variation.

PRELIMINARY MATTERS

The Appeal Site

3. The appeal site, or land shown edged in red on the plan ref: LCC1 attached to the enforcement notice, comprises or is part of a property known as Stanworth Farm.
4. The site comprises two irregularly shaped plots which are separated by a stream but conjoined by a bridge and access track which leads across the site from Finnington Lane to the west, as shown by the green line on the plan. Finnington Lane itself leads from Junction 3 of the M65, and the motorway passes close to the southern boundary of the site. The Leeds-Liverpool Canal circles the site to the north and east.
5. Since I carried out an unaccompanied site visit, I was unable to access most of the land. However, I walked on a short stretch of public footpath FP0903012 in the northeastern corner of the site. I also viewed the site from a canal bridge which leads to the footpath, from the stretch of the towpath between that bridge and Finnington Lane, and from the Finnington Lane site entrance.
6. There is no dispute that the winning, working and exportation of minerals has taken place on the site as alleged with [grit]stone having been excavated by the eastern end of the track. Operations began around January 2022 but ceased after a Stop Notice issued by the Council took effect on 7 October 2023. The notice has therefore been complied with in part but, under s181(1) of the Town and Country Planning Act 1990 (the TCPA90), compliance with an enforcement notice shall not discharge the notice. The appeal remains before me.



The Enforcement Notice

7. If an enforcement notice fails to comply with the requirements set out under s173 of the TCPA90, or it is hopelessly ambiguous or uncertain, it will be null and not amount to a notice in law at all. If a notice is not null but nonetheless contains some error, defect or misdescription, it may be corrected by an Inspector under s176(1), so long as doing so would cause no injustice to the Council or appellant. If there would be injustice, the notice will be uncorrectable and invalid.
8. The appellant suggests that the notice is invalid – although they may mean null – on the basis that references in the requirements to “stockpiles” and “soils stored in bunds” are imprecise and uncertain. The Council has confirmed, however, that the word stockpile is a reference to stone piled on the land, not to the separate soil bunds. I would expect the appellant to be aware that, as I saw, there are both stockpiles of stone and soil bunds on the land. The requirements are not so ambiguous as to nullify the notice. I shall consider whether they should and can be corrected via the appeal on ground (f) below.

Planning Merits and Environmental Impact Assessment

9. The appeal against the enforcement notice was originally made on ground (a) as well as the grounds listed above. Ground (a) is that planning permission ought to be granted for what is alleged by the notice, and it gives rise under s177(5) of the TCPA90 to a deemed planning application.

10. However, the Secretary of State directed on 15 May 2024 that the winning, working and exportation of minerals as alleged by the enforcement notice is 'EIA development' for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations').
11. The reasons for the Direction were that the appeal development falls within the description of 'quarries' set out in paragraph 2(a) of Schedule 2 to the EIA Regulations, and the information provided by the appellant did not suffice to rule out the potential for significant environmental effects – for the purposes of the Direction – or thus the requirement for an EIA.
12. The appellant sought to challenge the EIA Direction in the high court, but they did not succeed and the appeal must be determined under the EIA Regulations. Regulations 3 and 4 provide that planning permission must not be granted for EIA development unless an EIA has been carried out, involving preparation of an environmental statement (ES). No ES was submitted and so the appeal against the notice on ground (a) appeal and the deemed planning application have lapsed in accordance with EIA Regulation 41(e).
13. It follows that I have no remit to address representations, including from interested parties, regarding the planning merits of the alleged winning, working and exportation of minerals.

THE APPEAL ON GROUND (C)

14. An appeal on ground (c) is that the matters alleged by the notice do not constitute a breach of planning control. In most cases, whether there has been a breach depends upon whether planning permission is required or already granted. The onus is on the appellant to make their case on the balance of probabilities.

The Winning, Working and Exportation of Minerals

15. The appellant makes no case that the winning, working and exportation of minerals as alleged by the notice does not require planning permission. Under s57(1) of the TCPA90, planning permission is required for 'development' which is defined under s55(1) and (4) as including mining operations such as the removal of material of any description from a mineral-working deposit. I can describe the alleged winning, working and exportation of minerals as the 'appeal development'.
16. The appellant claims that planning permission is granted for the development under Article 3(1) and Part 6, Class C of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). It permits the winning and working on land, which is held or occupied with land used for the purposes of agriculture, of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which the land forms part.
17. That 'permitted development' right is subject to condition C.2 which requires that the extracted minerals are not moved to any place outside the land they were extracted from, except to land which is held or occupied with the extraction land and used for the purposes of agriculture. Paragraph D.1(6) explains that, for Class C, the term "purposes of agriculture" includes the "maintenance, improvement or alteration of any buildings, structures or works".
18. There is no dispute that the appeal site is held for the purposes of agriculture, and the appellant company also owns agricultural land at Blackmoss Farm in the

Chipping area of Lancashire. The appellant employs a single manager to oversee the farming of the appeal site and Blackmoss Farm “as a single unit”. The appellant claims that the stone extracted from the site is for use on the site and Blackmoss Farm in the carrying out of other operations, including the laying of foundations for agricultural buildings which themselves have planning permission.

19. I am satisfied that Blackmoss Farm is probably held or occupied together with the site for agricultural purposes. It does not automatically follow that the two farms comprise a single agricultural unit or that the winning, working and exportation of minerals was reasonably necessary, as a matter of fact and degree, for agricultural purposes. However, I need not address those questions.
20. Under Article 3(10) of the GPDO, Schedule 2 development within the meaning of the EIA Regulations is not permitted by the GPDO unless circumstances described in Articles 3(10)(a)-(c) or 3(12) apply. None of them do. Given the Direction of the Secretary of State, the appeal [EIA] development must be treated, under Article 3(11), as development which is not permitted by the GPDO. The appellant makes no claim that the winning, working and exportation of minerals benefits from any other planning permission.

The Access Track and Conclusion on Ground (c)

21. The appellant claims that the track shown as a green line on plan LCC1 is lawful, however, the notice does not actually allege that the construction of the track is in breach of planning control. I shall consider whether the notice may require a reduction in the width of the track via the appeal on ground (f).
22. However, I conclude that, on the balance of probabilities, the alleged winning, working and exportation of minerals amounts to development which requires but does not have planning permission. There has probably been a breach of planning control as alleged, and the appeal fails on ground (c).

THE APPEAL ON GROUND (F)

23. Ground (f) is that the requirements of the notice are excessive to remedy the breach of planning control constituted or, as the case may be, the injury to amenity caused by what is alleged by the notice.
24. The notice requires firstly the cessation of the alleged operations and then steps which, as discussed further below, are plainly intended to secure the restoration of the land to its previous condition. It follows that the purpose of the notice, or the outcome that the Council wants to achieve, is to remedy the breach of planning control. I must consider the ground (f) appeal with regard to the purpose of the notice and my finding above that there is indeed a breach as alleged.
25. Under s173(3) and (4) of the TCPA90, a notice shall specify steps to be taken or activities required to cease, which may achieve the purpose of remedying the breach by making any development comply with the terms of any planning permission granted, discontinuing any use or restoring the land to its condition before the breach took place. S173(5) allows a notice to require the alteration or removal of works, carrying out of operations and that any activity is not carried out.
26. The first requirement of the notice is not worded consistently with the allegation but can be corrected to that end without changing the notice in substance or causing injustice to the Council or appellant. Whether described as the “winning and

working” or “extraction” of minerals, I am satisfied that the requirement to cease the alleged operations is necessary and not excessive to achieve the purpose of the notice to remedy the breach.

27. The outstanding questions for ground (f) are whether it is excessive for the notice to require a reduction in the width of the track to a maximum of 3m, and the redistribution of the stockpiles and spreading of soils within the quarry.

The Track

28. The ‘Council’ referred to in this decision letter is Lancashire County Council, who issued the notice in their capacity as the minerals planning authority for the area. The **local** planning authority who deal with all ‘non-County’ planning matters, is Chorley Council.
29. Planning permission (ref: 22/0348/FUL) was granted by Chorley Council on 24 June 2022 for ‘retention of a field track and bridge crossing utilised to access land at Stanworth Farm’. The parties disagree as to whether the 2022 permission is tied to any plans or details that limit the track width to 3m; the Council also contends that the eastern end of the track is not authorised at all. While I requested copies of the approved plans, I find on reflection that the dispute is outside of my remit.
30. The only breach of planning control identified by the notice is the unauthorised winning, working and exportation of minerals. Without prejudice to whether there has been another breach, I could not correct the notice so that it also alleges the construction of a track not in accordance with the 2022 permission, firstly because that must be a matter for Chorley Council, and secondly because doing so would cause injustice. The notice would have more severe implications for the appellant, while they and the Council would both find their appeal cases compromised at this late stage in the proceedings.
31. A notice that is directed at an unauthorised change of use may require the removal of works which were ancillary to or facilitative of the breach. However, as outlined above, the appealed notice is concerned with mining operations. Even if the track was laid not in accordance with the 2022 permission purposefully to enable the unauthorised winning, working and extraction of minerals, we are still talking about the carrying out of different operational developments.
32. I also note that the requirement to reduce the track width to 3m would not address the Council’s concern that part of the track was not subject to the 2022 permission at all. However, that point is inconsequential because it is excessive for the notice to require any works to remedy a breach of planning control not alleged. I shall delete step (iii) and doing so will cause no injustice to the Council or appellant.

The Stockpiled Stone and Soils Stored in Bunds

33. As set out above, the appellant should be well aware that there are stockpiles of stone as well as soil bunds on the site. For the complete avoidance of doubt, I can correct the notice without causing injustice, and I shall do so, such that step (ii) refers to “stockpiled minerals extracted from the land” rather than stockpiles.
34. The appellant suggests that the requirements to redistribute the stockpiled stone and spread the bunded soils serve no purpose because the materials would be insufficient to fill the quarry. I do not accept this submission. Some extracted stone has been exported, and my deletion of step (iii) means that the quarry will not be

infilled with material from the track. However, the appellant did not expect removal of the track when contending for ground (c) that “the restoration proposal for the land at Stanworth that has been subject to mineral extraction is to refill the area with the existing topsoil and grade the levels into the surrounding land and reseed with grass. No material will be imported”.

35. I find that the requirements to redistribute the stockpiled stone, regrade the land to ensure that footpath FP0903012 may be walked along its definitive alignment, respread the bunded soils to restore the quarry and then seed that surface with agricultural grass seed are not excessive to remedy the unauthorised winning, working and exportation of minerals. That basic principle applies even if the stones and soils prove not in the end enough to restore the entire excavated area exactly to its previous condition. The site would be closer to that condition than it is now.

Conclusion on Ground (f)

36. I shall correct the notice so that step (i) is worded consistently with the allegation, step (ii) refers to ‘stockpiled minerals extracted from the land’, step (iii) is deleted and steps (iv) and (v) are renumbered accordingly. The appeal succeeds on ground (f) to that extent, but the requirements of the notice otherwise are not excessive to remedy the breach of planning control.

THE APPEAL ON GROUND (G)

37. Ground (g) is that any period specified in the notice in accordance with s173(9) of the TCPA90 falls short of what should reasonably be allowed. Under s173(9), a notice shall specify the period at the end of which any steps are required to have been taken, and it may specify different periods for different steps.
38. The appellant does not say that one day falls short of what is reasonable to cease the appeal development, because they have done that already pursuant to the Stop Notice. However, it is difficult to describe one day as a “period”. That defect does not nullify the notice which does set out periods for compliance with the other steps. I can vary the notice without causing injustice to give one week for compliance with step (i), and I shall do so despite the extension not being strictly necessary for the appellant’s purposes.
39. I shall consider the reasonableness of the periods for compliance with steps (ii) to (iv) on the basis that the required works have not yet taken place or even been begun. The appellant was entitled to assume success in their grounds of appeal, and act on the basis that the notice would be quashed pursuant to ground (c) or at least varied to reduce the burden of the requirements.
40. The appellant pleaded ground (g) on the basis that notice was due to take effect in November 2024, when the weather and ground conditions would have made it difficult, if not infeasible, to redistribute the stockpiled stone and then spread soil and grass seed on the land in 30 plus 14 days. I agree that the time of year is often an important consideration for ground (g), and it is in this case, but it is also not the only consideration.
41. As things stand, the notice will probably come into effect on the Springtime date of this decision letter. However, even if the effective date is followed by 44 days of unbridled sunshine, and although the appellant has not made this point, I would still consider the periods for compliance with the requirements to be on the short

side. The parties dispute the extent of excavation but, even on the appellant's lower figures, gritstone was won over an area of 2675sqm to an average depth of 3.2m. The photographs show a large gash in the land.

42. Unsurprisingly, then, I saw that the bund on the northern side of the quarried area is high and wide enough to tower over and cut across footpath FP0903012. Yet the bund did not entirely screen what must be a similarly large stockpile of stone behind. As step (ii) set out in the notice implies, it is not possible to walk even close to the definitive alignment of the public right of way. I find that the periods of 30 and 44 days fall short of what is reasonable to carry out the works required by the notice because of the sheer volume of materials involved and the need for due care and attention to ensure that the footpath becomes and remains safe to use.
43. However, the appellant has not explained why they would need six months or more to restore the site even if the weather and/or ground conditions are poor at the time. Given the seasonally fortuitous date of this decision letter, I conclude that it would be reasonable and proportionate to vary the notice to afford four months to comply with step (ii) and five months for what were steps (iv) and (v). The appeal succeeds on ground (g) to that extent.

OVERALL CONCLUSION

44. For the reasons given above, I conclude that the appeal on the whole should not succeed. I shall uphold the enforcement notice with corrections and a variation.

Jean Russell

INSPECTOR