



Appeal Decision

Inquiry opened on 19 June 2012 and closed on 14 September 2012

Site visits made on 18 June 2012 and 13 September 2012

by John L Gray DipArch MSc Registered Architect

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

Decision date: 15 November 2012

Appeal Ref. APP/H1033/A/11/2166189

Cowdale Quarry, near Cowdale, Buxton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Knell of Express Park Buxton Limited against the decision of High Peak Borough Council.
 - The application, ref. HPK/2011/0182, dated 30 March 2011, was refused by notice dated 20 June 2011.
 - The development proposed is the construction of a water bottling plant and associated storage areas together with a new access off the A6, internal roads and a visitor heritage centre.
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Decision: the appeal is dismissed.

Procedural matters

1. I opened the inquiry on 19 June 2012. It sat on 19-22 and 26-29 June and 12-14 September. I made an accompanied site visit on 18 June, before opening the inquiry, and accompanied visits to the site and the surrounding area on 11 September. I also made further unaccompanied visits to surrounding areas on 26 and 27 June and 10 and 11 September.
2. Prior to the inquiry, the appellant sought to substitute revisions L, F and C respectively for application plans nos. P9362/H100/J, H102/E and H113/A. The revisions, dealing essentially with annotations, make no material difference to the proposal itself or the effect it would have. The matter was considered on opening the inquiry and the revised drawings accepted as part of the appeal proposal. Accordingly, Inquiry Document EPB15, annotated as "Last Updated 7.6.12", lists the drawings for the proposal as considered at the inquiry.

Main Issues

3. There are four main issues in the appeal. They are:
 - 1) the method of construction of the access road from the A6 and the effect of that access road on:
 - (a) the scheduled monument;
 - (b) ancient and semi-natural woodland; and
 - (c) other protected woodland;
 - 2) the landscape and visual impact of the proposed development seen from:
 - (a) the A6; and
 - (b) various viewpoints around the site;

- 3) the potential availability and appropriateness of alternative sites; and
- 4) an assessment of the environmental impacts of the proposed development against its social and economic dimensions, and against policy, in order to conclude on its overall sustainability.

Reasons

Policy background

4. The Development Plan comprises the East Midlands Regional Plan, approved in March 2009, and the policies saved in 2008 from the High Peak Local Plan, which was adopted in 2005. The law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework, published in March 2012, is an up-to-date expression of Government policy and a very important material consideration. In it, paras. 214 and 215 set out the weight that may be given to relevant policies in existing plans according to their degree of consistency with the Framework. In essence, an adopted policy exhibiting more than a limited degree of conflict with the Framework should be considered out of date and given no weight.
5. The Regional Plan is expected to be abolished but remains part of the Development Plan at the time of writing. The Council refers to six policies; the appellant refers to two of those plus two others. Those policies are all fairly general in nature, looking to make best use of previously developed land, to protect and enhance the region's recognised or designated assets (most obviously, the Peak District National Park, the high quality of the landscape overall and ancient and semi-natural woodland) and to manage tourism and visitor demands. Policy 8, dealing with the sub-area which includes Buxton, seeks policies to, amongst other things, "address the social and economic need of the [National] Park's communities, for example, by the provision of appropriate business premises ...".
6. The reasons for refusal of the application cite eight saved Local Plan policies. Others may also be relevant to the proposed development but not directly to consideration of the objections to it.
7. Reason for refusal no. 1, relating to harmful development in the countryside, refers to Local Plan Policies OC1, OC3, OC4 and EMP7. OC1 is permissive of development in the countryside if it is integral to the rural economy; OC3 relates to Special Landscape Areas, the appeal site lying within one, and requires that development complying with OC1 does not detract from the special qualities of the area. OC4 also qualifies OC1 by requiring design appropriate to the character of the landscape. EMP7 is permissive of business or industrial development in the countryside subject to criteria. All of these policies are broadly consistent with the Framework and can be given weight, though OC4 seems to have been framed with a very much smaller scale of development in mind than proposed here.
8. Local Plan Policy OC2 is referred to in reason for refusal no. 2, on the setting of the National Park. Policies OC8 and OC10 are referred to in reason for refusal no. 3, on the loss of protected trees and ancient woodland within the designated Ashwood Dale Local Wildlife Site. Again, these policies are broadly consistent with the Framework and can be given due weight.
9. Reason for refusal no. 4, on pollution and residential amenity, refers to Local Plan Policy GD5, which deals with matters naturally to be taken into account.

10. Reason for refusal no. 5, on what has since become a scheduled monument, refers not to any Local Plan policy but to the then extant PPS5.¹ Saved Policy BC10, at first glance relevant at the time of refusal and more so now, is inconsistent with the Framework, stating that planning permission “will not be granted” for development likely to harm a scheduled ancient monument or other nationally important site. The Framework allows such a loss, subject to certain criteria being met – and I shall consider the impact of the proposed development on the monument against the provisions of the Framework.
11. A start was made on a Joint Core Strategy with Derbyshire Dales District Council but work on that ceased in April 2012. No weight can be given to what might or might not have emerged, though it may be noted that draft Policy CS3 carried forward the thrust of existing policy by seeking to protect the landscape character of the area for its own sake and for its benefit to the economic, environmental and social well-being of the area.

Construction of the access road

12. The extent of excavation necessary to construct the access road could significantly influence the resultant impact on the scheduled monument, the ancient and semi-natural woodland and other protected woodland. It could also affect the ability to create a bund between the road and the bottling plant on which trees could be planted to help screen the proposed building. The appellant was clear that the pecked lines on drawing no. P9362/H100/L showed the maximum proposed extent of excavation, that it was upon those lines that the appeal should be determined and that, should excavation beyond those lines be required, it would have to be the subject of another application for planning permission. Thus, the extent of excavation suggested by the Council was not to be considered as part of the appeal scheme.
13. That is an appropriate way forward, in which case the first task is to assess whether there is a reasonable prospect that what is proposed by the appellant could actually be implemented. If the evidence suggested a high likelihood that the access road could not be constructed in the manner proposed, then it would be inappropriate, other matters notwithstanding, to allow the appeal.
14. The position of the proposed access road junction with the A6 and the relocation of the existing layby cause no highways objection. (Nor does the amount of additional traffic, either during construction or on operation of the development.) What is at issue is the construction of the access road and the consequent effects on the scheduled monument, the ancient woodland, views from the A6 and, to a lesser extent, views from further afield.
15. The decision notice on the application does not suggest any objection to the design of the access road, or to the scale and extent of excavation necessary for its construction. Nor, indeed, does the Council’s Rule 6 Statement. Both cite the impact of the proposed access road but, in the absence of any elaboration, that can only be the impact of the scheme actually proposed. The Council’s evidence to the inquiry, however, started from the basis that it would not be (or could not be shown to be) possible to construct the access road in the manner proposed in the application and that, as a result, the impacts on the scheduled monument, the ancient woodland and the wider landscape would be much greater than suggested by the application plans and the appellant’s evidence.

¹ Planning Policy Statement 5 *Planning for the Historic Environment*, now superseded by the National Planning Policy Framework (paras. 126-141 in particular).

16. Whatever prompted that apparent change of stance, the Environmental Statement Further Information (ESFI) contributed somewhat to potential doubt about what might or might not be possible. It included a report by Balfour Beatty² which indicated that the slope design would “need to probably allow for benches, shallower slopes and ... additional stabilisation”. The approach adopted by the Council was that benches would be required and that the extent of excavation would thus be over a much wider area than indicated on the application plans. The amended Balfour Beatty report³ removed the scope for doubt but, inevitably, was open to the criticism of being self-serving.
17. In fact, the visual evidence all around the appeal site suggests that the application proposal is an entirely practical engineering proposition. The A6 through much of the length of Ashwood Dale has vertical or near-vertical rock faces which, albeit irregular, are obviously stable. There is certainly a significant amount of rock netting along the road – but that is designed primarily to give protection from modest rock falls, not to ensure or enhance general stability. Whether or where there is rock bolting is difficult to tell while driving a car (and walking along the road is hazardous!); again, though, rock bolting is intended to deal more with potentially problematic areas rather than overall stability. There is also the quarry face within the application site, some 950m in overall length and, roughly, between 13m and 26m high. There is evidence of rock falls in several places though little of that is recent; indeed, these almost vertical quarry faces have stood untended for well over half a century without succumbing to any inherent instability.
18. It is true that various geological and geotechnical investigations have yet to be carried out, investigations which would have to be undertaken if planning permission were granted and the scheme were to go ahead. Some would have to be done before construction work started on site. Others might more sensibly be undertaken as construction proceeded. Different techniques might be used on different areas according to what was found as work progressed. What is necessary at this stage, however, is to establish that, based on what is known about the geology of the area, the access road can be constructed within the limits of what is defined on the application plans.
19. In addition to the visual evidence mentioned above, BS 6031:1981 (extant when the initial design was prepared) sets out safe slopes for excavations in carboniferous limestone as “mainly vertical” and “70°-90°”.⁴ The 1981 document has now been superseded by the 2009 edition; it contains no similar table on the design of rock slopes in cuttings – but that cannot render the earlier information invalid. The appellant’s evidence also points to published geological mapping for the area, which shows bedding planes at shallow angles and a general absence of recorded faulting in the vicinity; and to a Transport Research Laboratory (TRL) report,⁵ which prefers near-vertical rock cuttings, where practicable, in excavations of the height necessary here.
20. Mr Shipp’s evidence for the appellant addresses rock face stability control and the potential for failure. It recognises the likely need for what may be described as standard remedial and preventative techniques – limestone masonry repairs, local rock anchors and rock bolts, rock netting (all

² Appendix 1 to Chapter 2 ‘Description of Development’.

³ Inquiry Document EPB22.

⁴ British Standard BS 6031:1981, Code of practice for Earthworks, p.20, Table 3.

⁵ TRL Published Project Report PPR556, 2011.

“additional stabilisation” to use the words in the Balfour Beatty report) and the provision of rock traps at the foot of the slopes. All can be accommodated within the scheme as proposed in the application.

21. It also considers methods of excavation, the anticipated technique being pre-splitting and blasting with low energy explosives. The Balfour Beatty report also considers the likely options. The intention is that all plant and equipment would be brought on to the site and that work would progress from quarry floor level down to the A6, thus minimising any disruption on that important road. The existing access route is barely wide enough to allow the largest equipment to be brought up to quarry floor level – but, in engineering terms, there is no major impediment to carrying out the works necessary to enable what is proposed.
22. All in all, there is adequate evidence to allow a conclusion that, in geological and engineering terms, it would be possible to construct the proposed access road within the physical limits defined on the application plans. The appellant expects to be able to excavate to steeper slopes than the drawings allow for (the wider limit having been set to allow a robust calculation of the amount of material to be excavated and the highways implications of removing it). At the same time, as was made plain at the inquiry, if planning permission were granted, it would be for what is proposed in the application; any expansion of excavations beyond the lines shown on the application plans would go beyond what was permitted. The risk, and consequent expense, of starting work and finding that conditions are not as anticipated would be the appellant’s – but there is nothing in the evidence to suggest that this risk has not been amply considered and found to be, in business terms, an acceptable one.
23. Accordingly, it is possible now to consider the impact of the access road on the scheduled monument and the ancient and other woodland on the basis of what is proposed in the application.

The scheduled monument

24. Part of the appeal site was scheduled under the Ancient Monuments and Archaeological Areas Act 1979 on 4 October 2011, a little over three months after refusal of the planning application. The historical importance of the area had, however, long been recognised. The site was assessed as long ago as 1997, as part of the then Monument Protection Programme, and subsequently considered in a ‘Step 4 Report’ on the ‘Lime, Cement and Plaster Industries’ in early 2001.
25. The summary assessment in 1997 was “Very impressive remains of early twentieth century limestone quarry and lime works, with traditional lime kilns”, the recommended action was to “Schedule the whole site” and the note on management said that “Repairs and consolidation would be expensive”, an alternative being to “record the site, limit vegetation and allow slow decay with limited public access”. The Step 4 Report also recommended scheduling for Cowdale Lime Works, having noted it in the text as one of a number of “impressive remains” in Derbyshire.
26. The ‘List Entry Description’ for the scheduling is detailed. The final paragraph says that the purpose is to “protect the standing, buried and earthwork remains”, that further remains with archaeological potential lie outside the scheduled area but the “focus of the scheduling should lie along the northern edge of the site, where a greater intensity of remains survive and the

- archaeological potential is at its greatest". The designation is said to capture the "rare and nationally significant group value of the monument".
27. Perhaps more helpful is English Heritage's scheduling notification report of September 2011, which sets out the reasons for the designation decision. In essence, they are: that the monument survives in a relatively complete state; that the various surviving elements give it group value both spatially and from a time depth perspective; that it is rare – one of only five sites recognised as of outstanding national importance; that there is potential for further archaeological discovery; and that there exists a considerable amount of historical documentation.
 28. The approach taken by the appellant is, in effect, to disaggregate the scheduled monument into its component parts. Support for that approach may seem to flow from the 1997 site assessment, which attached high, medium and low significance to various elements on the site. The power house, considered of high importance in 1997, has since been demolished, only its position and general size now being apparent. The kilns and the powder house were the other buildings considered of high importance in 1997. The drum house, the incline and the tramway were all assessed as of medium importance. The appellant's view is that the features within the scheduled monument which would be removed as part of the scheme are some of the least significant structures within the lime works and that their removal would not cause substantial harm to the monument.
 29. The Council maintains that it is the whole of the monument that is important, not various individual elements. It notes that 11% of the scheduled area would be lost, though that cannot, in itself, be a cogent objection. More pertinently, it notes the ESFI reference to the "potential effect on [the] stability of the lime kiln structure" – but goes no further than to assert that excavations "are likely to cause severe structural damage, potentially resulting in collapse". That is Mr Baker's archaeological evidence but it is taken no further in Mr Beauchamp's engineering evidence, which simply raises the possibility that a broader cutting than proposed could potentially affect the structural integrity of the kilns. Mr Baker also identifies as significant the loss of the inclined tramway to the excavations for the road.
 30. It is plain that, as the scheduling notification report says, the scheduled monument survives in a relatively complete state. In addition, its setting may be seen as an important contributor to its value. In this context, the intrinsic merits of the individual buildings and remains are of lesser importance. It is not particularly surprising that none of the buildings is listed, though Mr Pugh, for the appellant, thought the absence of listing noteworthy. What gives the monument its importance is the simple fact that the structures exist, or their remains or their locations are evident, and that the relationship between the buildings and other elements of the site can be seen and relatively easily understood. In effect, the whole is much greater than the sum of the constituent parts.
 31. Looked at in this light, the access road would have a seriously damaging effect on the scheduled monument. In particular, the inclined tramway would all but disappear. In its place would be a road in a deep cutting, wholly different to the present track from the drum house down to the power house. The drum house, only a partial shell, would remain – but there would be no indication at all of what it was or what function it might have had. The power house has already been demolished but its location at the foot of the incline

and its general size are still apparent; that visual link would be lost. It seems that works were carried out around 2000 to allow easier access along the tramway; and that may or may not have resulted in the loss of buried archaeological evidence.

32. However, none of those matters is crucial in itself. Indeed, demolition of the power house did not prevent scheduling of the site. It is not the loss of individual buildings that is the greatest concern; it is the loss of legibility on a site that, at present, can be reasonably easily interpreted. The inclined tramway descends from the top of the kilns to the level of the railway and sidings at their foot; the access road, in a cutting about 15m wide and 11m deep as it passes the tops of the kilns, would mean that that physical and visual link would be completely destroyed. In similar vein, whatever the state of the other remaining buildings and elements, and whether or not some would be demolished, the greater loss would be to the relative completeness of the site and its group value.
33. There is also the setting of the monument to consider. In effect, the road would physically sever the monument from the quarry. The visual link would nevertheless remain obvious. And, given the existing contours and proposed bunding and planting, the erection of the proposed building would not unduly diminish the value of the monument, at least when standing within it.
34. The proposed heritage centre might well offer a significant compensatory benefit. There is clear potential for explaining the history of the site both in the centre and on a 'heritage trail' around the monument. However, there is no firm suggestion for the route of a trail, or of the effect that that might itself have on the monument. Nor is there any fixed idea of what the heritage centre might seek to portray – it might be limited to the history of the site itself, or it might illustrate the limestone industry more generally, or it might illustrate both the mineral water and limestone industries. There cannot be an objection in principle to any of those options, though the differences between them leave open a number of possible options for the heritage centre. Also, there are a number of ways in which a heritage trail might be laid out and the potential impact of that on the monument itself is extremely difficult to judge. Thus, even if the heritage centre and trail were considered acceptable compensation for the harm to the monument, the information available is wholly inadequate to enable satisfactory control by way of planning conditions.
35. The National Planning Policy Framework deals with conserving and enhancing the historic environment at paras. 126-141. Paras. 131-134 are the crucial ones for this appeal. Para. 132 notes that substantial harm to or loss of heritage assets of the highest significance, which includes scheduled monuments, should be "wholly exceptional". The reasoning above makes the harm to the monument "substantial", which means that the proposed development must be assessed against the provisions of para. 134.
36. Substantial harm to a heritage asset may be acceptable if it can be demonstrated that it is necessary in order to secure substantial public benefits that outweigh that harm. What is proposed is a commercial undertaking. Its benefit would be in enabling the use of the Rockhead mineral water spring, a presently untapped resource, thus adding to choice in the bottled water market. Doing so would bring benefits for employment, the economy of Buxton and, potentially, the town's image. It is open to argument whether those amount to the sorts of "substantial public benefits" that the writers of

the Framework had in mind – and, even if they are, the question is whether they are substantial enough to outweigh the harm to the monument.

37. Para. 133 can also admit substantial harm to a heritage asset if all of four criteria are satisfied. It is doubtful, to say the least, that “the nature of the asset prevents all reasonable uses of the site”. The appeal site is in the countryside, where Local Plan Policy OC1 permits only development which is integral to the rural economy. The proposal is not – and the site could be, as it has been, put to agricultural use without harm to the monument. (There is, though, an argument that the proposed development cannot be sited elsewhere – that is considered below.) It is undoubtedly true that “no viable use of the heritage asset can be found”; it represents what used to take place but will never, so far as can be envisaged, be reinstated (and, if quarrying were ever restarted, it would surely be on a wholly different basis). “Conservation by grant funding or some form of charitable or public ownership” is highly unlikely. And finally, for similar reasons to the first criterion, the harm cannot be outweighed by bringing the site back into use. The nature of the scheduled area prevents any practical use and appropriate uses of the quarry are limited by policy to those that are integral to the rural economy. Agricultural use, obviously an option, would comply with policy. Accordingly, only two of the four criteria are met, meaning that, on this plank of the policy, the substantial harm that would be caused to the monument should lead to dismissal of the appeal.
38. There is also the question of securing access for the plant and equipment needed for construction of the access road. While there may be no major engineering obstacle, it would require details of the necessary works to be able to establish the likely impact, if any, on the scheduled monument.
39. The conclusions here are based purely on arguments related to the scheduled monument and the conservation and enhancement of the historic environment. There are other issues in this appeal, notably the question of alternative sites and the overall sustainability of the proposed development in the context of the Framework. Conclusions on the individual issues must be balanced against each other once all have been considered.
40. The appellant has submitted an application for scheduled monument consent and English Heritage has confirmed its intention to recommend refusal of that application. At the time of the inquiry, the appellant anticipated no further action in that regard until after the decision on this appeal had been issued. The conclusions above should not influence the merits of the scheduled monument consent application; equally, a positive conclusion from the inquiry into that application, likely based on more detailed proposals and a more detailed examination of them, could justify reappraisal of the conclusions above.

The ancient and semi-natural woodland

41. The area of ancient and semi-natural woodland⁶ that would be lost to the proposed development is around 2,400sqm. That is an extremely small area. It is less than 0.1% of the ancient woodland within the High Peak. There are different figures for the overall area of the woodland from which this loss

⁶ The correct term is “ancient and semi-natural woodland” and was explained at the inquiry; for simplicity, and as at the inquiry, I use the shorter term “ancient woodland” in the rest of this decision.

would occur – the lower is the Council’s figure of 7.2ha⁷, of which 2,400sqm is also a very small proportion (about 3.3%).

42. In addition, a not dissimilar area would be separated from the rest of the ancient woodland by the proposed access road. One may wonder whether that area should also be deemed to be ‘lost’. However, the ancient woodland stands on both sides of the A6 and the River Wye, a gap not very different to what would be caused by the access road; and the ancient woodland is anyway part of a much larger area of woodland stretching in both directions along Ashwood Dale. This means that the fragmented area of ancient woodland would not become truly isolated, making it inappropriate to count it as a loss.
43. In addition to the smallness of the area to be lost, its actual quality is dubious. Colonisation by sycamore indicates major disruption of the area in the past. The speculation seems entirely reasonable that ash was felled during the two World Wars and elm was cleared in the 1970s following Dutch elm disease. Sycamore is not a native species, the trees attain substantial heights, they have a long lifespan and they are thus likely to dominate other species. There is young elm in the woodland, and also regenerating ash, but it is debatable whether these species can retain the dominance they once enjoyed. The ESFI notes the general absence of undisturbed mature and old growth stands and of standing or fallen deadwood. Mr Baxter’s evidence for the appellant notes that, of over 80 of the indicator species of ground flora identified for ancient woodland in Derbyshire, just seven have been found here – and none of them particularly strong indicators of ancient woodland, being commonly found elsewhere as well. There is little or no evidence of the management normally associated with ancient woodland. The ESFI describes the condition of the ancient woodland as “unfavourable”. Natural England acknowledges that it is “not in good condition” and has withdrawn its original standing objection.
44. On the basis of the above, the case for resisting any loss of ancient woodland must be considered tenuous. There are also two potential benefits to flow from the proposed development. First is a commitment to the management of the wider area of ancient woodland. Given that ancient woodland derives its qualities from the intervention of man over the years, to enable the area to be properly managed must be considered a benefit. Second is the translocation of soils from the ancient woodland to be lost to an adjacent area to the south. There can be no guarantee of the outcome of this – but the effort of so doing must surely be worthwhile.
45. There seems to be a difference between national policy as set out in the Framework and Natural England’s standing advice. The latter concedes that the Framework “represents a recent change in planning policy” and that there is a balancing exercise to be undertaken between the loss of the resource (in this case ancient woodland) and the need for and benefits of the proposed development. On the other hand, it takes the view that ancient woodland is an irreplaceable resource and that mitigation and compensation are matters to be considered only after any conclusion that the benefits of a development would outweigh the loss of ancient woodland. The Framework, however, may

⁷ The ES gives the area as over 11ha.

be seen as recognising mitigation and compensation as matters to be considered in coming to a conclusion.⁸

46. On the evidence, the quality and condition of the ancient woodland that would be lost mean that the grounds for resisting that loss as a matter of principle are hardly compelling. The benefit from management of the remaining area of ancient woodland, virtually all of it outside the appeal site, must also weigh in favour of the proposed development. If conclusions on the other main issues pointed towards allowing the appeal, the loss of ancient woodland could not, on its own, justify dismissal. This conclusion may be at odds with some past decisions but it is based on the evidence to the inquiry and what could be seen at the site inspection; and it is reached in the context of the National Planning Policy Framework.

Other woodland

47. There are three tree preservation orders affecting the appeal site. The first was made by Derbyshire County Council in 1955 and includes a small area of the ancient woodland which would be lost to the proposed access road. The impact of that loss is discussed above. The second was made by the County Council in 1975 and could be affected only by the relocation of the existing layby on the A6. There are clearly other options for that relocation, on land within the appellant's control⁹ but beyond the area of the tree preservation order; and, since a satisfactory solution may reasonably be anticipated, it is possible to set to one side, for the moment at least, the impact arising from what was proposed in the planning application. The third order was made by High Peak Borough Council after refusal of the planning application. It includes all of the woodland that would be lost to construction of the proposed access road.
48. The Council's evidence looks more at potential tree loss overall than at particular areas. It suggests that overall tree loss would be much greater than estimated in the ES ecology report and the subsequent ESFI tree report. Cross-examination at the inquiry established that that was not so for the actual proposal subject of the appeal. The appellant's evidence gives the existing area of on-site woodland as 2.49ha, of which 0.49ha would be lost. Of that, 0.24ha would be the ancient woodland discussed above. New woodland planting would amount to 1.82ha.
49. There is nothing particularly exceptional about the protected woodland that is not part of the ancient woodland. Overall, the woodland along the Dale has clear amenity value, which could, in theory, be diminished by the proposed losses (including those to the relocated layby). In practice, however, the visual impact would derive more from the new access road in its cutting (and excavation for the layby) than from the actual loss of trees – I discuss that below. Also, the areas of new planting elsewhere on the site, though they would need time to grow and have an appropriate visual impact, would vastly exceed the relatively limited area to be lost. Accordingly, it is not the loss of protected trees that is the critical consideration but the visual impact of the access road (and layby) that they would make way for.

⁸ In the National Planning Policy Framework, the 5th bullet point in para. 118 resists any loss of ancient woodland unless the need for or benefits of the development outweigh that loss; the 1st bullet, however, says that "if significant harm ... cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

⁹ Including land immediately west of the Cowdale road junction, though it is not known whether that would satisfy highway need and design requirements.

Ecology

50. Ecology is not in itself a main issue but warrants mention here in relation to the loss of ancient and other woodland and the proposed tree planting. It does not appear in the reasons for refusal but is implicit in the terms of Local Plan Policy OC8. In the event, the Council brought no specific evidence on the subject (other than comments in Miss Gillespie's evidence related to the loss of trees and woodland) and it proved unnecessary to call Mr Baxter to give his evidence for the appellant (though it remains as written evidence).
51. The designated Ashwood Dale Local Wildlife Site is effectively the same area as the ancient woodland. The reasoning above on the character and quality of the ancient woodland does not need to be elaborated further because of this designation. The ES notes that badgers make use of the woodland and that pipistrelle bats forage along the woodland edge, though there are no features likely to support roosting. No other rare or notable species were recorded.
52. Put simply, the evidence to the inquiry did not identify any ecological matter that could not be addressed by condition, were the appeal to be allowed.

Landscape and visual impact

53. The landscape character of the area has been well charted. In regional terms, it lies within the 'White Peak' character area. In the Peak District National Park Character Assessment, it lies within the Limestone Village Farmlands Landscape Character Type (LCT). The Derbyshire County Council Landscape Character Assessment places the site partly in the Plateau Pastures LCT and partly in the Limestone Dales LCT. In more general terms, the character of the landscape is influenced by numerous operational and disused quarries and by the densely treed valley of the River Wye.

From the A6

54. The new cutting face along the A6 itself, west of the proposed access road junction, and necessary to enable visibility from it, would vary from about 3m high up to 10m or 11m. That is comfortably within the general scale of rock face already encountered along this stretch of the road. It would, of course, have a somewhat raw appearance initially; in the longer term, however, it would mellow so that it was not unduly distinguishable from other faces.
55. The access road itself would be in deep cutting from bottom to top. On the outside of the curve close to the road's junction with the A6, the cutting face would rise over a length of some 60m from 11m or so up to around 26m high. Its height would then vary but would still be about 19m where the road begins to bend round into the quarry floor. The rock face on the south side would vary between about 12m high at the bottom of the straight stretch of road and 7m at the top. It would, indeed, be a very deep chute.
56. However, the cutting would barely be seen, save by drivers on the road itself. From the bottom, eastbound drivers on the A6 would have an oblique view over a distance of around 80m only. They would see no more than about 75m into the cutting,¹⁰ though that would include the very highest part of the rock face. Westbound drivers would have little opportunity to register more than that there was a junction with a road into a cutting. From the top, users of the proposed heritage trail around the scheduled monument would be able

¹⁰ Measured parallel to the A6 from the centre-line of the junction.

to see straight down the full length of the cutting – though they would almost certainly have driven up it to get to the heritage centre in the first place.

57. The main visual impact would be largely due to the junction itself, an obviously new junction engineered to modern standards. Signage, recognised at the inquiry but not considered in any detail, would clearly play a part in that impact. On the other hand, there are other older accesses along the A6, on its north side. There are also railway bridges high across the road. None of that is particularly attractive when looked at closely but neither is it unduly damaging to the overall impression of wending ones way (sometimes slowly and behind heavy goods vehicles!) through a pleasant and heavily treed incised valley. The proposed access road junction would have the visual disadvantage of being to up-to-date highway standards, taking up much more space than the old existing accesses; but there is no obvious reason why, over time, it should not mellow to become no more than an expected part of the scene. And very much the same may be said of the layby, though it might perhaps be relocated where only modest excavation was required.
58. The visual impact when viewed from the upper end of the cutting by visitors to the heritage centre and scheduled monument can, for practical purposes, be discounted. Those people would only be there because the heritage centre is part of a development the impact of which has been judged to be acceptable overall.

From Cowdale

59. The view from Cowdale is, in effect, the view from Swallow House. Apart from the occupiers of that property, views into the quarry and of the proposed development could only be gained from the track giving access to pasture land and the quarry itself, which would provide only emergency access under the proposals. The Mid Shires Way public footpath runs a little to the south and affords no views into the quarry from close to Cowdale.
60. As things stand, the bottling plant would be seen from Swallow House and, being a very large building indeed, would inevitably and harmfully change the character of the existing attractive scene. But the proposed development includes a 1.5m high dry stone wall along the top of the quarry edge. That would be wholly in keeping with the traditional character of the area and not itself at all prominent or dominant; it would also, so far as can be judged, obscure the bottling plant in views from the garden or ground floor windows of Swallow House. In addition, tree planting is proposed which would screen all views into the quarry. Mr Jones, the present occupier of Swallow House, objected to that because it would also screen a substantial part of the pleasant view to the north-west beyond the quarry. Whether that can be considered unacceptable is very much a personal opinion. The proposed tree planting would change the view north-west from Swallow House to something much more contained, though views to the west would remain. Also, the proposed tree planting could not itself be considered in any way harmful to residential amenity.

From around Staden

61. One may leave Staden heading east along the Mid Shires Way, from where no part of the development would be visible. Or one may leave by a footpath to the north, in which case, as one then looks east, one would see the roof of the bottling plant. The proposed dry stone wall would have a similar effect here as at Cowdale. It would likely be high enough to obscure all views of the

bottling plant; if it were not quite high enough, then the view would be of no more than the green and brown roofs, rather than of something more obviously industrial and man-made. In general terms, there would be no undue harm to views of the landscape from around Staden.

From the north side of Wye valley

62. A number of views from the north side of the valley were assessed – in particular from Tim Lodge, from around Bailey Flat Farm and from Tongue Lane, varying between 0.6km and 1.0km from the centre of the appeal site. There are no closer public viewpoints. Site visits to the first two of these three locations demonstrated that the photomontages produced in evidence for the appellant by Mr Evers were a relatively accurate representation.
63. From Bailey Flat Farm,¹¹ the roof of the lower half of the bottling plant would just be visible; the higher part of the building would be obscured behind the existing rock spur on the northern side of the quarry. The ESFI classifies the sensitivity of the receptors as medium (when the Council thought, entirely reasonably, that it should be high); the magnitude of impact as respectively 'moderate adverse', 'slight adverse' and 'negligible' during construction, on completion and after 15 years; and the significance of the impacts as 'moderately significant' during construction but 'not significant' on completion or after 15 years. That seems a very fair assessment. The green roof would be recessive rather than prominent and it is doubtful, with tree planting on the bund to its north having become established, if the wall of the building would be at all visible after 15 years.
64. From Tim Lodge, the impact would not be very different. The ESFI this time classifies the sensitivity of the receptor as high, the magnitudes of the impacts as respectively 'moderate adverse', 'slight adverse' and 'negligible' during construction, on completion and after 15 years, and the significance of the impacts as 'significant', 'moderately significant' and 'not significant' respectively. Again, this seems a very fair assessment.
65. From Tongue Lane, the working Ashwood Dale Quarry becomes increasingly prominent the nearer one moves towards it and the appeal site. The angle of the view means that the bottling plant would not be visible at all.
66. It is unlikely that the existence of the access road would be particularly noticeable in any of these views. It would perhaps be possible to read that there was a gap in the woodland, in the same way that it is possible, depending on the light, to read the line of the A6 and the River Wye. To realise that there was a gap in the tree cover would not, however, materially diminish the overall impression of the steep and densely wooded valley side.
67. Accordingly, while the construction process would be noticeable and part of the proposed development would be evident immediately on completion, the proposed bunding and tree planting would eventually render the bottling plant all but invisible and the attractive character of the landscape all but unchanged. The quarry face to the south would remain prominent as an integral and typical part of the landscape.

From the National Park

¹¹ Viewpoint 1 in the ESFI (Chapter 5, Appendix 2) is from 250m west of Bailey Flat Farm; Viewpoint 3 is south-east of Tim Lodge. It was agreed by both the appellant's and the Council's representatives at the accompanied site visit that what could be seen from between Bailey Flat Farm and Tim Lodge meant it was not necessary to look from further west or south-east.

68. From Tim Lodge, the boundary of the National Park runs north-west along Redgap Lane to north of Bailey Flat Farm and south along a field boundary towards Ashwood Dale. It might be possible to see a little more of the proposed building from south-east of Tim Lodge, during construction or on completion, but the visual impact would not be materially different to that assessed above. In terms of the setting of the National Park, the buildings and workings of the nearer Ashwood Dale Quarry have a far greater visual impact than Cowdale Quarry as it presently exists or as it would be with the proposed development. The Park boundary also follows the road from the A6 up to and through Cowdale but there would be no view of the proposed development from that road. The setting of the National Park would not be adversely affected.

Overall conclusion on landscape impact

69. The length and depth of the cutting for the access road would be largely unseen. Eastbound drivers (and passengers) on the A6 would have only an oblique view of the first 75m or so, albeit that that would include the highest part of the rock face. Westbound motorists would register the junction, and that there was a road in a cutting, but little more. The main visual impact would be caused by the junction itself, and also the cutting to give visibility westwards from it. While the junction would be engineered to modern standards and would undoubtedly have a raw appearance immediately on completion, there is no reason why it should not mellow over time to become an unexceptional incident in the journey along the A6. The impact of the relocated layby would be similar, perhaps less.
70. The proposed bottling plant would be an enormous building. On most sites, it would be impossible to disguise its sheer size. Here, however, it would have the advantage of being largely hidden on the old quarry floor. Ultimately, there would be no wider views of the development, from any direction, in which the attractive quality of the landscape would be unduly diminished. Construction would almost certainly be apparent – and, immediately on completion, the development would be seen in some views – but, over time, the proposed tree planting would afford a satisfactory screen.
71. Thus, during construction and on completion, there would be conflict with Local Plan Policies OC3 and OC4. Once the proposed landscaping had become established, however, it would be possible to say that the developer had had the necessary “special regard [for] the landscape quality of the area” (Policy OC3) and had had regard to “the land form” and “the pattern and composition of trees and woodland” (Policy OC4). That would certainly be true of views towards the development from all around the appeal site. It would be less true of views from the A6 because, even after it had mellowed, the junction and what could be seen of the access road would still be perceived as a modern intervention in an otherwise mature scene. The development would not be conspicuous from the Peak District National Park, at least not after landscaping had become established, and there would be no conflict with Policy OC5. Policy OC1 is considered below in balancing the conclusions on the various issues.

Alternative sites

72. There is no reason for refusal relating to the availability or suitability of alternative sites. The matter was dealt with in the Planning Assessment accompanying the application and subsequently in the ESFI. The Council did

not identify any suitable alternative site but maintained that the appellant's investigations had not demonstrated that none existed.

73. I made it clear on opening the inquiry that, in the first instance, the appeal would be determined on the merits of the proposal itself – if it was acceptable, then there would be no need to consider other sites; if it would cause significant harm, such that the benefits of the development would not demonstrably outweigh that harm, then there would be no need to consider other sites; only if the issues were finely balanced against the proposal would it then be appropriate to look more closely at what alternatives might exist. In the event, and because substantial harm arises from only one of the issues considered above (impact on the scheduled monument, but not impact on ancient woodland and protected trees or in relation to landscape and visual impact), other potential options for the location of a bottling plant warrant consideration.
74. The ESFI assessed five sites against the merits of the appeal site – Tongue Lane, Staden Lane, Foxlow Farm, Hoffman Quarry, Harpur Hill and Waterswallows Road. The Council suggested that two other sites could be considered – Waterswallows Quarry and Station Road, Buxton.

The appeal site

75. The obvious disadvantage of the appeal site is that it is in the countryside and development on it would run contrary to saved Local Plan Policy OC1. The obvious advantage is that it is relatively close to the Rockhead spring, and to the Staden Lane borehole. Indeed, a pipeline running from the Rockhead spring pump house to the borehole and the former bottling plant at Staden Lane already passes close to the site.
76. The access can be considered a disadvantage of the appeal site in that it requires such extensive excavation to construct it. So, too, can the impact of development on the scheduled monument. However, visual and landscape impact and the effect on ancient woodland and other trees do not weigh heavily in the balance. The site was also argued as being previously developed land. That seems incorrect. It is more accurately described as land "where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time"¹² – and thus should not qualify as previously developed land.

Tongue Lane

77. The land at Tongue Lane is partly inside and partly outside the built-up area boundary. The conflict with Policy OC1 might perhaps be considered weaker for an urban extension than for a site clearly in the countryside, even though development would be much more visible than on the appeal site. The allocated land amounts to around 4ha and is in two ownerships; additional land would be required to give the minimum 5ha said to be required (and which seems to be very much a minimum). At present, access is through a residential area, a clear disadvantage. The Council did not challenge the appellant's evidence that development would be dependent on access by a new road link which would itself be dependent on private sector investment tied to new housing and industrial development, and that there was no known timescale for the land coming forward. It cannot be considered available.

¹² From the definition of previously developed land in the glossary at Annex 2 to the National Planning Policy Framework.

78. The site is 1.6km from the Rockhead spring. A pipeline would have to cross the A6 and the River Wye, negotiate the steep rock slopes on the north side of Ashwood Dale, avoid Ashwood Dale Quarry and almost certainly pass through the Cunning Dale section of the Wye Valley Site of Special Scientific Interest (SSSI). The distance is not an insuperable obstacle but the route would cause serious problems for the construction and subsequent integrity of what was, not unreasonably, described as the "umbilical cord" of the operation.

Staden Lane

79. The allocation at Staden Lane is far too small for the proposed development and there is no obvious extension of it that could provide enough land. It is said to be close to numerous archaeological sites but that seems to be no greater a constraint than on the appeal site. Proximity to the Staden Lane borehole and the existing pipeline from the Rockhead spring is obviously a great advantage – but counts for nothing when the site is too small.

Foxlow Farm

80. This site, on the other side of the A515 from Staden Lane industrial estate, is potentially much more attractive. It is open agricultural land at present but, being opposite the existing industrial estate, might perhaps be susceptible to development. It does not seem that the topography would be a major constraint to development. Access would be good. It is relatively close to the Staden Lane borehole and the existing pipeline; the pipeline would have to be extended across the railway line and the A515 but that ought not to pose insuperable problems. The site was proposed for allocation in the Local Plan, for employment and residential purposes, but was rejected by the Inspector in 2004, in part because it would be a conspicuous encroachment into countryside. A bottling plant of the size proposed could not fail to be conspicuous on this site – but it is now 2012 and, if there is seen to be merit in tapping the Rockhead spring, then the circumstances may have changed sufficiently since the Local Plan Inspector's conclusion in 2004 to warrant consideration afresh.

Hoffman Quarry

81. The Economic Land Review¹³ identifies 2.2ha of potentially developable land, making the site far too small to accommodate the proposed development. Additional land does not appear to be available. As such, it is unnecessary to consider other advantages or disadvantages.

Harpur Hill

82. The allocated site here is still smaller – only 0.5ha apparently being available and there being no obvious options for the area of land actually required.

Waterswallows Road

83. This site is well outside the defined limits of the built-up area. However, it is close to the new Nestlé plant and a possible conclusion is that, given the visual impact of what is already there, the impact of a second bottling plant would be less than substantial. On the other hand, the Council's view at the time, given the absence of any other suitable site, was that an exception could be made for Nestlé on a personal basis. The site is some 3.2km from the Rockhead spring and the difficulties of running a pipeline to it would not be dissimilar to those at Tongue Lane – the A6 and the River Wye would have

¹³ Peak Sub-Region Employment Land Review, August 2008, Nathaniel Litchfield and Partners.

to be negotiated, as would the steep rocky northern slopes of Ashwood Dale; the quarry and the SSSI could be avoided; but the route would be much longer and would probably have to pass through the edge of the National Park. A route might be found but the cost and practicality of construction and the potential vulnerability of a pipeline weigh against this site.

Waterswallows Quarry

84. The present state of this former basalt quarry makes development almost certainly impractical and unviable. Massive reclamation/restoration work across the whole of the quarry would seem to be necessary, even though the development would not need to occupy any more than around 15% of it. In addition, there would be inevitable difficulties laying a pipeline to it (already discussed above) and the potential constraint of a geological SSSI within it.

Station Road

85. This was one of the two sites vacated by Buxton Water when moving to Waterswallows. Nestlé's economic case was that consolidation of the operation on a single site was necessary. In light of the Council's acceptance of that argument, the site cannot sensibly be suggested as suitable for a different operator.

Conclusion on alternative sites

86. It cannot be cogently contended that the appellant's approach to alternative sites has been lacking when the Council was unable, until its evidence to the inquiry was submitted, to suggest any potential location that had not already been considered. The Council may have felt it could not itself suggest any location that ran contrary to its own policies, OC1 in particular, but, equally, that policy was bound to limit the locations it was reasonable for the appellant to look at, especially in comparison with what were being argued as the merits of the appeal site.
87. The Council did, in fact, say in a letter that there were sites on which it would permit development, including Hoffman Quarry (about 3.6ha, rather more than the 2.2ha identified by the Land Review), Staden Lane (1.6ha) and Tongue Lane (about 4ha). None of those is large enough for the proposed development. The letter went on to say that the other options were to pursue an allocation through the Local Development Framework or to apply for consent on a site contrary to the Development Plan. That would have required a commitment of time, effort and money, very likely to no avail. Instead, the appellant may be seen to have shown beyond reasonable doubt that there is no alternative site which is both available, even potentially available, and more suitable for the development proposed.
88. The Council's actions also seem to run contrary to the position it took on the Nestlé development at Waterswallows. Then, the conclusion was that there was no other suitable site. It is difficult, therefore, to understand why this proposal may be resisted because of a perceived flaw in the appellant's assessment of possible alternative sites.
89. The question of whether there might be an alternative site on which the proposed development would cause less harm has, as a result of the assessments, turned into the question of whether, if the Rockhead spring is to be tapped, there is actually any site other than Cowdale Quarry on which a bottling plant might practicably and viably be erected. The answer is that there is perhaps one, Foxlow Farm – but that is a conclusion based on

evidence to the inquiry too superficial to suggest it as a serious option. It would surely be as controversial as the appeal proposal and would raise two very similar issues – policy conflict and visual and landscape impact. In short, therefore, it cannot be said that there is an alternative site so clearly more suitable than the appeal site that the development proposed for the appeal site should be resisted for that reason.

Overall sustainability in relation to extant policy

Social and economic dimensions

90. It cannot really be claimed that there is a need for the proposed development. It would enable use of a presently untapped resource – the Rockhead mineral water spring. That could, depending on the name chosen for the product, enhance the image of Buxton as a spa town already well known for its mineral water. If there is to be any growth in Buxton's natural mineral water industry, it can only come from the Rockhead spring. To do so would add to the range of market choice, helping to increase consumption of British water and reduce the proportion of imported water. This, however, does not constitute a need to produce bottled mineral water from this source (in the same way as, for example, a need for new housing is assessed). On the other hand, the proposed development would certainly bring benefits for the domestic bottled water industry and for Buxton in particular. Also, if this proposal is rejected, it seems more than likely that the Rockhead mineral water spring would remain unexploited.
91. It must be accepted that development on the scale proposed is appropriate. If some 175 million litres of water can be extracted annually, then it makes sound business sense to extract that amount, always assuming that the market for it, whether at home or abroad, is judged to exist. Development to do that would generate around 100 jobs. There was debate about this at the inquiry; the actual number and how soon it would be reached would depend on a variety of things – but, even if the final total were as low as, say, 75, that would still be a significant benefit of the scheme. The development would represent an inward investment of £20 million, a construction contract value close to £10 million and an increase of £4 million annually to Buxton's economy, over £6 million to Derbyshire's. All of these are significant benefits.

Relationship to extant policy

92. Whatever those benefits, the proposed development runs contrary to a number of saved Local Plan Policies – OC1 because it would be development in the countryside that is not integral to the rural economy; OC3 because it would detract, albeit only to an extent, from the qualities of the Special Landscape Area; OC4 because its scale, rather than its design, would be inappropriate to the character of the landscape (the scale of the building might be appropriate for that of the quarry but a building of this size could not hope to be seen as appropriate to the overall character of the landscape – its potentially saving grace is that it would hardly be seen); EMP7 because the development would not be appropriate to a countryside location in terms of, in particular, scale; and BC10 (though it was not referred to in the reasons for refusal and is inconsistent with the National Planning Policy Framework) because it would cause substantial harm to a scheduled monument.
93. The above conclusions in relation to policy assume that the land should not be considered previously developed. The quarry does, of course, represent previous development. However, the definition of previously developed land

in the Glossary annexed to the National Planning Policy Framework specifically excludes "land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time". That is surely the case here. The quarry faces may be evident, prominent in many views, but quarrying is so commonplace in the area that the landscape derives part of its character from such features. In contrast, the structures are no more than the remains of what used to be; they have become enveloped by the landscape; even the quarry floor (perhaps with some assistance) has been used for grazing. Notwithstanding what the Local Plan Inspector said in 2004, to count the appeal site as previously developed land would be to cast a blind eye to the definition in the Framework.

94. The effect on the scheduled monument is to be assessed against the National Planning Policy Framework rather than saved Local Plan policy, since Policy BC10 adopts a far more restrictive position than the Framework. The harm that would be caused to the monument would be substantial in the terms of the Framework. The "public benefits" of the proposal do not seem so substantial as to outweigh that harm and the criteria that might allow the harm to be considered acceptable are not met.

The balance to be struck in relation to the National Planning Policy Framework

95. The Framework is a very important material consideration. It is up-to-date. It emphasizes that the aim of the planning system is to contribute to achieving sustainable development, which is explained as encompassing economic, social and environmental roles. There is a presumption in favour of sustainable development and a decision on a planning application or appeal should seek to balance these three roles.
96. Thus, while the proposed development conflicts with Local Plan Policy OC1, that cannot be the end of the matter. The benefit of locating it close to the Rockhead spring and the absence of any other suitable location (save perhaps one, also outside the built-up area boundary) must weigh heavily on the opposite side of the scales. Conflict with Policy OC3 is limited, as concluded above. Conflict with Policy OC4 is arguable, because the policy deals with design rather than scale – though it would be difficult to achieve an acceptable design for a building of this size on an open site. Conflict with Policy EMP7 may be diminished because the building would be within the old quarry and, once landscaping had become established, would be all but unnoticeable; the policy requirement to be appropriate to a countryside location may thus be met in a way not expressly catered for, by being virtually invisible. Also, it may be noted that there is no policy against which proposals relating to the protection or growth of the mineral water industry, acknowledged as important to Buxton's future, may be assessed. Overall, therefore, there are a number of factors that may diminish the weight to be given to the policy conflicts when assessing the sustainability of the proposed development in terms of its economic, social and environmental dimensions.
97. The economic and social roles offer clear benefits – major inward investment, a boost to the local economy and perhaps as many as 100 new jobs (as well as the construction jobs in a £10 million contract). Those must carry significant weight. Also the proposal is sustainable in that it would exploit a natural and wholly renewable resource of a type that is limited, numerically and geographically, in the United Kingdom.

98. In the end, however, it is the harm that would be caused to the scheduled monument that tips the balance against the proposed development. An important piece of cultural heritage would be seriously damaged by the sheer scale of the excavations required for the proposed access road. Its construction would effectively destroy the legibility of the monument as a whole, even if those features of it that would be lost were assessed, at the site inspection in 1997, as individually not of high importance.
99. The environmental harm that would be caused through loss of ancient woodland and other trees and through visual and landscape impact would be sufficiently modest in nature or duration that it would, on balance, be outweighed by the economic and social benefits when coming to a balanced conclusion on the sustainability of the proposed development. That is not so when the harm to the scheduled monument is also taken into account.
100. If a way could be found to mitigate that harm, whether by amendment of the scheme (which seems an unlikely proposition) or by acceptable proposals for the monument itself, coupled with appropriate interpretation in the proposed heritage centre and on a heritage trail, then it might be that the balance would tip in the opposite direction. Though the details of the scheduled monument consent application were not before the planning inquiry, the anticipated inquiry into that application will presumably consider the proposals against the alternative of slow decay and might afford a solution to outweigh the harm that leads to dismissal of this appeal.

Noise and other pollution

101. Reason no. 4 for the refusal of planning permission was that there was insufficient information adequately to assess potential noise and water course pollution. The possibility of water course pollution is surely inconceivable; for the proposed development to cause that would undermine its very purpose. Also, in the event, the Council brought no evidence on pollution, which it had concluded could be satisfactorily dealt with by planning condition. Dr Cookson was not required to present his evidence on noise for the appellant (though it remains as written evidence). The matter is not a main issue in the appeal but was raised at the inquiry, primarily in Mr Jones's evidence and questions, and also in written representations, in particular from OMYA UK, operator of the Ashwood Dale Quarry.
102. Noise, dust and lighting during the construction process could be controlled by a condition attached to planning permission that required approval of a construction methodology statement. A condition limiting construction hours would prevent inappropriate noise or lighting outside the normal working day. Noise from the operation of the plant could be effectively controlled by a condition stipulating maximum noise levels at appropriate sensitive locations. A lighting scheme for the site when it was in operation could also be the subject of a condition.
103. OMYA was concerned that noise from Ashwood Dale quarry might be more likely to breach the condition on its permission if development on the appeal site removed features such as the spoil heaps which presently act as a buffer to noise from the quarry that might reach Staden and Cowdale. However, nothing is proposed that could have that effect.

Conditions and Obligation

104. The section 106 agreement executed immediately before the close of the inquiry provides for the appointment of a Travel Plan Co-ordinator, the preparation of a Travel Plan and the payment of a Landscape Monitoring and Ancient Woodland Contribution. The Travel Plan would contribute to the sustainability credentials of the proposed development. The agreement's provisions are necessary to make the development acceptable in planning terms, were other issues to lead to favourable conclusion, they are directly related to the development and reasonably related to it in scale and kind.
105. In addition to the matters already considered above, conditions were suggested on which I raised a number of queries and a revised schedule was discussed at the inquiry. Following those discussions, I am confident that conditions could be framed which could successfully address outstanding concerns and details in relation to all matters save, as already considered above, the scheduled monument.

Overall conclusion

106. There is conflict with a number of saved Local Plan policies but that conflict is mitigated by the modest scale and nature of the harm that would be caused and by the economic and social benefits that would flow from the proposed development. What is not outweighed by those economic and social benefits is the significant harm that would be caused to the scheduled monument within the appeal site by the construction and the visual and physical impact of the proposed access road. All other matters raised at the inquiry and in representations have been taken into account but it is the conclusion on that issue that leads to the dismissal of the appeal.

John L Gray

Inspector

APPEARANCES

FOR HIGH PEAK BOROUGH COUNCIL

Peter Taylor, of DLA Piper Limited	instructed by Nicola de Bruin, Solicitor, High Peak Borough Council.
He called	
Stephen J Beauchamp BSc CEng MIMMM MCSM	The Mineral Planning Group, Clayton, West Yorkshire.
Stephen Baker BA MA	Derby and Derbyshire Development Control Archaeologist, Derbyshire County Council.
Nicholas I Folland BA(Hons) DipLA CMLI	Barnes Walker Limited, Manchester.
Monica Gillespie BSc(Hons) MSc MSB CBIol TechCert (ArborA) TechArborA	Arboricultural Officer, High Peak Borough Council.
Sue Ashworth BA(Hons) BPI	Principal Planning Officer, High Peak Borough Council.

FOR EXPRESS PARK BUXTON LIMITED

Christopher Boyle, of Counsel	instructed by Ian Jewson Planning Limited, The Georgian House, Gas Ferry Road, Bristol, BS1 6UN.
He called	
Prof John Gunn BSc(Hons) PhD FGS CGeol	Consulting Hydrogeologist, Limestone Research & Consultancy Limited.
Peter Knell FCCA	Miller Turner Investment Management Limited (part of the Express Park Group).
Tom Shipp BSc(Hons) CEng MICE FGS FIQ RMaPS	Technical Director, Jubb Consulting Engineers Limited, Plymouth.
Greg Pugh BA MIFA	Director, CgMs Consulting, Cheltenham and Birmingham.
Nigel Evers DipLA(Glos) CMLI	Director, Cooper Partnership Limited, Bristol.
Julian Forbes-Laird BA(Hons) MICFor, MEWI MArborA DipArb(RFS)	Director and Principal Consultant, Forbes-Laird Arboricultural Consultancy Limited, Bedford.
Bernard Greep BA(Hons) MTPI MRTPI	Associate Partner, Roger Tym & Partners, Manchester.
Jim Sharp BSc(Hons) MSc MRTPI	Ian Jewson Planning, Bristol.
Not called were	
Alistair Baxter BA(Hons) MA(Oxon) MSc CEnv MIEEM	Director, Aspect Ecology, Banbury, Oxon.
Dr Richard Cookson BSc(Hons) PhD MIOA	Philip Dunbavin Acoustics Limited, Lymm, Cheshire.

INTERESTED PERSONS

Phil Jones
Jane Jones
Julia Mellor

Sarah Benson
John King of Friends of the Peak District
Stuart Engall
Hazel Everatt
Jeremy Gratton Chairman of King Sterndale, Cowdale and Staden Parish Council
Simon Marrow
David Hoyle who also spoke on behalf of Alison Hoyle
Julian Done
Tim Snee
Michael Bryant of the Buxton Group
Dr Ian Parker Heath
Frank Emerson

DOCUMENTS

Documents submitted by High Peak Borough Council

HPK1 Letter of notification of date and venue of inquiry, with distribution list.
HPK2 Letter dated 18 June 2012 from Derbyshire County Council to High Peak Borough Council.
HPK3 Email correspondence, 18 and 19 June 2012, between Derbyshire County Council and High Peak Borough Council.
HPK4 BS 6031:2009, Code of practice for earthworks.
HPK5 Photographs of the A6 corridor.
HPK6 Extract from Inquiry Report APP/J0215/A/06/2024005.
HPK7 Letter dated 21 March 2012 from English Heritage to Express Park Buxton.
HPK8 Review of interaction between sycamore and ash, with Natural England Technical Information Note TIN053.
HPK9 Extract from Mangiatorella website.
HPK10 Extract from Network Rail website re. easements and wayleaves.
HPK11 Correspondence re. discrepancies in area of Ancient Woodland.
HPK12 Borough Council's letter of 27 April 2012 to the Planning Inspectorate.
HPK13 Emails from and to Peter Alcock of Alps Group re. employment at the Nestlé Waterswallows plant and the potential difficulties in running a pipeline to it.
HPK14 (*submitted after the close of the inquiry at the Inspector's request*) – letter of 27 September 2012 on a suggested noise condition based on that applying to OMYA.

Documents submitted by Express Park Buxton Limited

EPB1 Council's response to draft Further Statement of Common Ground.
EPB2 Extract from BS 6031:1981, Code of practice for earthworks.
EPB3 Email dated 13 June 2012 from Natural England (as forwarded by Jim Sharp to Peter Knell on 20 June 2012).
EPB4 Email dated 12 June 2012 from Mrs de Bruin.
EPB5 CgMs drawing showing scheduled ancient monument on Jubb dwg. 930/H100/J.
EPB6 Guidance on photo-montages.
EPB7 Appendix 2 to Landscape and Visual Impact Assessment, Environmental Statement Further Information, marked up to relate the assessments by Messrs Evers and Folland.
EPB8 Letter dated 13 June 2012 from Natural England.
EPB9 Aspect Ecology dwg. 2950/BMES1/B showing ecological enhancements.
EPB10 Cowdale – Woodland Statistics (removal, new planting and management).
EPB11 Supplementary Statement of Common Ground – Schedule of Tree & Woodland Proposed for Removal.
EPB12 Biodiversity Action Plan for High Peak.

- EPB13 Photographs of Waterswallows Quarry.
- EPB14 Email dated 25 June 2012 confirming works undertaken to inclined track.
- EPB15 Drawing List for the proposal as considered at the inquiry ("last updated 7.6.12").
- EPB16 Environment Agency letter dated 16 August 2010 re. water pollution.
- EPB17 Note by Professor Gunn on pollution arising from on-site treatment of limestone.
- EPB18 Letter dated 13 October 2010 from the Council to Mangiatorella SpA.
- EPB19 Letter dated 22 June 2012 from Red Rock Geoscience Ltd re. ground conditions with analysis diagrams and table of dips and dip directions.
- EPB20 Rock Removal, 6 June 2012 – explanatory notes, calculations and diagrams by Geoffrey Barnett Associates.
- EPB21 Letter dated 22 June 2012 from Balfour Beatty.
- EPB22 Amended Balfour Beatty Proposal.
- EPB23 TRL Published Project Report PPR556 – Rock engineering guides to good practice: road rock slope excavation.
- EPB24 Photographs of the Power House in its present condition.
- EPB25 Photograph of work to incline.
- EPB26 Mr Evers' drawing NE12 – Cross-section D.
- EPB27 Replacement Appendix JFL5.
- EPB28 Aerial photograph of Cowdale Quarry, when operating.
- EPB29 Diagram showing current, proposed and sought layby dimensions.
- EPB30 Diagram of proposed cut in relation to tree T7113.
- EPB31 Drafts of s.106 and s.278 agreements submitted during the adjournment of the inquiry.
- EPB32 Draft s.106 agreement submitted on resumption of the inquiry.
- EPB33 Jubb drawing showing possible layby locations on the A6.
- EPB34 Jubb drawing H400/D showing cross-section of lime kiln in relation to proposed access road excavation.
- EPB35 Note by Mr Greep re. market percentage of imported bottled water.
- EPB36 Mr Baxter's written response to the Inspector's questions.
- EPB37 Dr Cookson's written response to the Inspector's questions.
- EPB38 Mr Shipp's written response to the Inspector's question on rock netting.
- EPB39 Mr Shipp's written response to Mr Emerson's representation.
- EPB40 Professor Gunn's written response to OMYA's representation (Document IP5.2).
- EPB41 Draft schedule of conditions as at 13 September 2012.
- EPB42 Copy of executed s.106 agreement.
- EPB43 *(submitted after the close of the inquiry at the Inspector's request)* – two emails from Mr Sharp on a suggested noise condition based on that applying to OMYA.

Documents submitted by Interested Persons

- IP1 Written submissions by all those speaking at the inquiry (see Appearances above).
- IP2 Bundles of additional material submitted by Mr Jones throughout the inquiry.
- IP3 Letters from Ward Councillor Keith Savage and County Councillor Pam Reddy (both unable to speak at the inquiry).
- IP4 Additional statement from Frank Emerson (inquiry statement at IP1.17).
- IP5 Written representations by OMYA UK; (1) dated 15 May 2012 and (2) undated, submitted on resumption of the inquiry on 12 September 2012.
- IP6 Letter dated 18 June 2012 from Silverdale (Buxton) Limited.