



Appeal Decision

Inquiry held on 16-19, 23-26 November and 6 December 2021

Site visit made on 25 November 2021

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2022

Appeal Ref: APP/M1900/W/21/3278097

Land at Hatfield Aerodrome, off Hatfield Road AL4 0HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Brett Aggregates Limited against the decision of Hertfordshire County Council (HCC).
 - The application No:5/0394-16 (CM0961), dated 22 January 2016, was refused by notice dated 6 January 2021.
 - The development proposed is the establishment of a new quarry on land at the former Hatfield Aerodrome, including new access to the A1057, aggregate processing plant, concrete batching plant and other ancillary facilities, together with the importation of inert fill material to restore the mineral workings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. At the Inquiry applications were made by Brett Aggregates Limited and by HCC for awards of costs against each other. Colney Heath Parish Council (CHPC) and Ellenbrook Area Residents' Association/Smallford Residents' Association (EARA&SRA) made applications for costs against both Brett Aggregates Limited and HCC. These applications are the subject of separate Decisions.

Preliminary matters

Proposed development

3. The 87.1 ha appeal site comprises the western part of the former Hatfield airfield located between St Albans and Hatfield. A new access junction is proposed onto the A1057 Hatfield Road. The scheme proposes the extraction of 8 million tonnes of sand and gravel from an Upper Mineral Horizon (UMH) and a Lower Mineral Horizon (LMH), which are separated by a clay interburden, and subsequent infilling with inert waste. The UMH and LMH are both aquifers that overlie a chalk aquifer. An UMH recharge lagoon and LMH recharge lagoon are proposed to be sited towards the eastern boundary of the site, in the vicinity of the River Nast, which would be diverted around the site boundary.

4. The operation proposes seven phases (Phases A to G) over a 32-year period. Extraction would occur by means of a campaign method of working determined by groundwater conditions. This would require an 'as-dug' mineral stockpile within the plant site proposed for the north-western part of the appeal site. The stockpile would have a footprint of up to 30,000 m² and would be up to 5 m high.
5. An aggregate processing plant, aggregate storage, concrete batching plant (CBP), along with freshwater lagoons and temporary silt lagoons would also be sited within the plant site. The precise details of the CBP would be dependent upon the final choice of manufacturer, but it would comprise a feed hopper, aggregate storage bins, mixer and loading head, cement silos and water tanks.¹ The typical CBP plant shown in Appendix 3/1 of CD1.2.3 indicates a cement silo 13.375 m high.
6. Progressive restoration would involve a mix of conservation, open space and public access to create a landscape of similar character and appearance to the existing Ellenbrook Fields Country Park.
7. Cemex operates a sand and gravel extraction and processing facility to the north-west of the appeal site. The appeal site encloses on three sides the residential/employment development at Popefield Farm. There is also residential development to the south-east of the appeal site in the vicinity of Poplars Close/Avenue in Hatfield, along with existing and planned residential development located to the south-west of the appeal site in Smallford.

Bromate contamination

8. Bromate contamination of public and private groundwater supplies in the locality was detected in 2000. The source of the pollution was traced to a former chemical works near Sandridge about 4 kms to the north-west of the appeal site. A bromate/bromide plume in groundwater currently extends eastward some 20 km to the River Lea.² This plume is primarily in the chalk aquifer but also in the lower mineral aquifer. Bromate pollution of the aquifers poses a risk to the future groundwater resource potential and also causes failings of groundwater objectives under the Water Framework Directive. The Environment Agency (EA) has a duty to ensure that future groundwater resources are protected from deterioration and, where impacted by historic contamination, remediated to the required standard.
9. The EA served a first Remediation Notice in 2005 for which all actions were completed and/or expired in 2019. A second Remediation Notice was withdrawn in 2020 following submission of a Voluntary Remediation Statement, with work currently underway to address the actions set out in this statement. Current remediation involves interim scavenge pumping from a borehole at Bishops Rise to protect a number of abstractions operated by Affinity Water (AW) and Thames Water. The EA acknowledges that this 'pump and treat' scheme protects downstream sources to a degree, but does not address the full pollution issues as Bishops Rise does not intercept the full extent of the bromate plume. High concentrations of bromate/bromide observed within the

¹ CD1.1 paragraph 3.25.

² It was established in 2007 that concentration contours of 0.5 ug/l bromate, and 125 ug/l bromide, are broadly coincident. EARA&SRA submitted that whilst not a carcinogen bromide could be a precursor to bromate as it travels faster in chalk. Even if that is so, the EA's primary concern is bromate contamination and the evidence to the Inquiry concerned bromate concentrations rather than bromide concentrations.

plume-wide monitoring network, the large volumes already removed from the chalk aquifer and the rapid increase in concentrations to the east when Bishops Rise abstraction ceases, even for short periods, indicate a significant continuing source of both contaminants upstream of Bishops Rise.

Planning application

10. The application was first reported to HCC's Development Control Committee in 2017 and the resolution was to grant planning permission subject to a number of considerations, including a deed of variation on matters relating to the establishment of a Country Park. This was not resolved and further environmental information comprising additional borehole monitoring data and a draft Ground Water Management Plan was submitted in 2019. After further consultation the application was reported to committee in December 2019 with officer recommendation for approval. The committee resolved to defer consideration in order to be further advised by the EA and AW as to the risks of mineral working affecting contamination to the water supply from the bromate plume. HCC subsequently refused the application, against an officer recommendation to approve the scheme, for four reasons;
 - (1) the effects of the proposal on the Green Belt,
 - (2) the timing of restoration,
 - (3) the impact on the local environment from additional HGV traffic, and
 - (4) possible groundwater contamination.
11. The fourth reason for refusal reflected local concerns about the effects of the scheme on the lower aquifer to the north of the site, which is contaminated by bromate. HCC was not satisfied that the risks to the water environment were acceptable, that all routes to possible contamination had been appropriately investigated, and that all necessary mitigation had been included and would be effective.
12. Reasons (2) and (3) were not included in the 'Amplification of reasons' section of HCC's Statement of Case and were not pursued by HCC at the Inquiry. However, these matters remained of concern to local objectors to the proposal.

Participation in the Inquiry

13. CHPC, EARA&SRA, the EA and AW were granted Rule 6(6) status, submitted Statements of Case and appeared at the Inquiry. HCC did not notify all persons who had made representations on the application and/or appeal about the Inquiry until 16 November 2021.³ The Inquiry was kept open, for amongst other reasons, to ensure that 14 days' notice was given about the opportunity to appear at, or make representations to, the Inquiry. As the Inquiry was not closed until 6 December 2021, I do not consider that anyone would be prejudiced by this late notification.

Case Management Conference

14. The Case Management Conference (CMC) held on 8 September 2021 discussed the appellant's request for the appeal to be held in abeyance because a further planning application for the appeal site had been submitted to HCC. This application was accompanied by an Environmental Statement dated August

³ ID1.

2021 (ES2021).⁴ The appellant had been advised by the Planning Inspectorate on 6 September that abeyance or deferral was not agreed because of trying to keep within the targets specified by the Rosewell Review, and that the submission of a second application was not sufficient justification to delay the Inquiry and a decision on the appeal. Nothing was raised at the CMC to warrant a different finding.

Statements of Common Ground

15. I requested at the CMC that the appellant/HCC/EA/AW jointly prepare a technical Statement of Common Ground concerning groundwater. The parties were to consider a date for this to be submitted, so as to be in time to inform the drafting of proofs of evidence. However, the agreed statement (SoCGH) was not submitted until 5 November 2021.⁵
16. A Statement of Common Ground, dated 21 October 2021, by the appellant and HCC sets out agreed matters concerning the development proposals, documents and plans, policy, along with draft planning conditions and obligations (SoCG).⁶ This states that the appeal scheme includes a CBP and provided for limited dewatering of the workings within the LMH.

Environmental Impact Assessment

17. The application that is the subject of this appeal was accompanied by an Environmental Statement dated January 2016 (ES2016).⁷ Additional information was submitted to HCC prior to its determination of the application. Revised access arrangements included a right turn lane from the A1057.⁸ A revised restoration concept (Drawing HQ 3/11A) was also submitted, along with details of the final phases of mineral extraction (Drawings HQ 3/13-15).
18. The Secretary of State notified the appellant on 22 September 2021, pursuant to Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations), that, to comply with Schedule 4 of those regulations the appellant was required to supply further information for ES2016. This required updated baseline data, an assessment of lighting effects, along with an updated Flood Risk Assessment (FRA) to take account of current climate change allowances advised by the EA.
19. The appellant provided a comparison of ES2016 and ES2021, alongside a consideration of how the updated data and assessments produced for ES2021 affect the overall conclusions in ES2016. The appellant's response to the Regulation 22 request is considered further later in this decision, but I am satisfied that the submitted information meets the requirements of Schedule 4 of the EIA Regulations. I have had regard to the environmental information in determining this appeal, which includes the evidence adduced at the Inquiry.

Legal obligations

20. The appeal site lies within an area that is the subject of a section 106 agreement, dated 29 December 2000 (the 2000 s106 agreement), which provides that, amongst other things, pending the grant of the Ellenbrook Park

⁴ CD02.02.

⁵ CD8.02.

⁶ CD8.01.

⁷ CD1.2.

⁸ CD1.3 Drawing No.402.01009.00064.14H002 R4.

Lease to the Ellenbrook Park Trust the Ellenbrook Park is at all times accessible and freely available to the public save for periods when public access needs to be excluded from parts thereof when landscaping works are being carried out or when minerals are being extracted pursuant to a planning permission.⁹ Ellenbrook Park is also referred to locally as the Country Park and in this decision that term is used to distinguish it from Ellenbrook Linear Park, which lies further to the east.

21. The appellant, the landowner and HCC entered into a section 106 agreement dated 10 December 2021 (the 2021 s106 agreement).¹⁰ Nothing in this deed is intended to supersede amend or otherwise impact in any way the covenants, restrictions, stipulations and obligations under the 2000 s106 agreement. The 2021 s106 agreement provides for a sustainable transport contribution of £92,000 towards improvements of the Hatfield Road and Ellenbrook Lane junction and improvements of the Hatfield Road and Comet Way junction. It also requires a highway agreement for works relating to the proposed new site access and removal of existing vegetation on highway land and for improved pedestrian facilities (widening of existing footway) along Hatfield Road (A1057) to assist pedestrian links between the site and Albans Way, along with condition surveys to reveal any deterioration in the condition of Hatfield Road from the operation and provisions for repair/reinstatement. The construction and dedication of bridleways is a requirement of the 2021 s106 agreement. So too, is provision for restoration and/or aftercare as a consequence of the developer and/or owner having failed to do so.

Green Belt, Listed Buildings and other statutory provisions

22. The appeal site lies within the Metropolitan Green Belt as defined in the development plan. Popefield Farm is a grade II listed building. I am required to have special regard to the desirability of preserving the setting of a listed building.
23. A conditional abstraction licence was issued to Brett Aggregates Limited by the EA in 2018 for dewatering/lowering of water levels in both the upper and lower mineral aquifers on the appeal site.¹¹ The licence imposes no limit on the overall volume of groundwater abstracted but sets a pump capacity not exceeding 86 litres per second. Abstraction is permitted all year. A condition specifies that water from the lower mineral aquifer must be returned to the lower mineral aquifer and only via the lower mineral lagoon and only when the water level in that lagoon is below 74.5 m AOD and would remain so during the discharge.
24. An Environmental Permit for the appeal site was issued to Brett Aggregates Limited by the EA in 2018 for an inert waste landfill operation.¹² This contains an annual limit on inert waste for disposal of 250,000 tonnes, all of which must be listed within the Landfill Tax (Qualifying Materials) Order 2011.

⁹ CD11.03.

¹⁰ ID51.4.

¹¹ The full abstraction and transfer licences expire in March 2026. ID48, CD11.4 and CD11.5.

¹² CD11.6.

Planning policy

25. The appeal site straddles the boundary between St Alban's City and District Council and Hatfield District Council. The development plan for the area includes Hertfordshire Minerals Local Plan Review 2002-2016 adopted in 2007 (MLP). MLP Policies 1 and 2 concern supply of and need for aggregates. MLP Policy 3 identifies preferred areas for sand and gravel extraction. Most of the appeal site is allocated in the MLP for future mineral working as Preferred Area 1: Land at former British Aerospace, Hatfield (PA1). Proposed mineral working within PA1 will be permitted only when it contributes to maintaining HCC's appropriate contribution to local, regional and national aggregate needs, including maintenance of a landbank, along with fulfilling other identified requirements.
26. These requirements are set out in the Inset Map for PA1 and refer to reclamation consistent with the delivery of a Country Park, and a requirement for an appropriate buffer zone to protect the amenity of residents of Ellenbrook, Smallford and Popefield Farm. It also includes advice from the EA that the site lies over an area contaminated with a plume of bromate and that a more robust risk assessment may be required in order to determine the impact on the public water source at Bishops Rise. The EA also noted that the site lies over both groundwater protection zones II and III (SPZ2 and SPZ3). The EA would object to landfill in SPZ2 unless it was non-polluting matter such as inert, naturally excavated material, and would require mitigation of the risk of pollution in SPZ3.
27. Four small areas of the appeal site adjoin, but lie outside, the PA1 boundary. There was no dispute at the Inquiry that these areas would form an integral part of the proposal and if excluded would lead to the sterilisation of mineral resources. MLP Policy 4 provides that applications for aggregate extraction outside of Preferred Areas would be refused unless, amongst other things, the sterilisation of resources would otherwise occur.¹³ MLP Policy 7 concerns secondary and recycled materials. MLP Policy 9 deals with biodiversity. Development that would result in an unacceptable cumulative impact on the environment of an area would not be permitted (MLP Policy 11). Landscape is addressed in MLP Policy 12. Reclamation and aftercare are the subject of MLP Policies 13 and 14. MLP Policy 15 concerns landfill. Traffic movements generated by the proposed development are considered in MLP Policy 16.
28. The development plan also includes the Waste Core Strategy and Development Management Policies Document adopted in 2012 (WCS&DMPD), Waste Site Allocations 2011-2026 adopted in 2014, City and District of St Albans District Local Plan Review adopted in 1994 and reviewed in 2020, and the Welwyn Hatfield District Plan adopted in 2005. I have also had regard to relevant provisions of the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG). The Hatfield Aerodrome Supplementary Planning Guidance adopted in 1999 (SPG) sets out key principles in respect of future mineral extraction and restoration. Neither the MLP or the district local plans set out specific criteria for mineral development in the Green Belt and so the relevant provisions of the NPPF are an important material consideration in this case.

¹³ ID46.

Appellant's request to consider an amended scheme

29. The appellant's response on 23 September 2021 to the Regulation 22 request for further information referred to the recently submitted planning application for what was considered by the appellant to be essentially the same development to the appeal.¹⁴ ES2021 was said to include the updated baseline data and FRA, along with a non-technical summary and updated drawings. The appellant proposed to immediately submit ES2021 in response to the Regulation 22 request and to publicise this.
30. Four differences were cited between the first (2016) and second (2021) schemes; the removal of the erection and operation of a CBP, the standoff for mineral extraction operations in the LMH to the bromate plume increased from 50 m to 100 m, with no dewatering (pumping) of the LMH; and the access road from the quarry entrance moved by 5 m to the east to allow additional acoustic screening. The appellant invited the Inspector to substitute the resubmission development in this appeal.
31. The main parties to the appeal were invited to comment on this request. I advised that amendments to a scheme at the appeal stage can be accepted provided no one would be prejudiced by doing so and that the principles set out in the *Wheatcroft* and *Holborn Studios* judgments were satisfied.¹⁵ I clarified that I would not be in a position to rule on this until anyone who wished to do so had had an opportunity to comment at the Inquiry on the request and to make submissions about whether any prejudice would be likely to result. The parties were therefore informed on 30 September 2021 that the appeal would continue to proceed on the basis that it was the scheme refused by HCC that was the subject of the appeal.
32. The Appellant's Submission on Amendment, dated 2 November 2021, states that the four proposed amendments were to:
- (a) Move the quarry entrance access road by 5 m to the east to allow additional acoustic screening by reference to 2015 drawing HQ 3/2 and the 2021 drawing HQ 7/2.
 - (b) Increase the standoff for mineral extraction in the LMH to the bromate plume from 50 m to 100 m by reference to 2015 drawing HQ 3/7 and 2021 drawing HQ 3/8.¹⁶
 - (c) Delete the erection and operation of a CBP.
 - (d) Specify no significant dewatering (pumping) of the LMH with a planning condition making clear just how limited extraction would be.
33. At the Inquiry, I requested a note to clarify how the appellant says that the scheme considered by HCC may be amended, and such amendments secured and made clear in any planning permission that may be granted.¹⁷ The proposed changes were described as "no CBP; slight movement and change in configuration of the access road; a LMH standoff in the NE of the site; no pumping". The appellant noted that the first two would require plans to be

¹⁴ Application No: PL/0232/21 was validated on 3 September 2021.

¹⁵ *Bernard Wheatcroft Ltd v SoSE* (1982) 43 P.&C.R. 233. *R (Holborn Studios Ltd) v LB Hackney* [2017] EWHC 2823 (Admin).

¹⁶ 2021 Drawing HQ3/8 indicates "Limit of Lower Mineral Extraction (100m offset)". 2015 Drawing HQ3/7 makes no mention of an offset.

¹⁷ ID50.

approved, which are different to those submitted with the 2016 scheme, and proposed to substitute Drawings HQ 3/1, HQ 3/2 and HQ 3/3, all dated August 2021, as opposed to November 2015. A draft unilateral undertaking was submitted to the Inquiry in which the owner and the developer covenant that should planning permission be granted they would not construct nor operate any CBP forming part of the development.¹⁸ I have considered the appellant's request for an amendment of the scheme at the appeal stage on this basis.

34. I turn first to the proposed substitution plans. The difference between the 2015 and 2021 versions of the Overall Phasing/General Layout Drawing HQ 3/1 are the location and alignment of the access road, the position of the weighbridge and an apparent increased set back of Phases A, B, D and F from Popefield Farm. If substituted the 2021 version of HQ 3/1 would appear to show a different boundary for these Phases to that shown on the retained 2015 Drawings HQ 2/3, HQ 3/7-10 and HQ 3/13-15.
35. The appellant also requests that the Entrance Design 2015 Drawing HQ 3/2 be substituted for 2021 HQ 3/2 Site Entrance and Weighbridge Area. This shows a revised road alignment along with the siting of a Weighbridge Office, Weighbridge Deck-Out and Deck-In, Weighbridge By Pass and Turning Circle and Rejected Loads. These are located further into the site than the Wheel Wash and Tank shown on the 2015 version. In addition, the 2021 drawing provides for a proposed concrete road extending from the site entrance to the Plant Site, whereas the 2015 drawing provides for a Tarmacadam or similar road surfacing up to the Wheel Wash and an Un-metalled Site Road beyond.
36. The requested substitution of 2015 Drawing HQ 3/3 Plant Site (Masterplan) with 2021 HQ 3/3 Plant Site would provide for a different configuration for the plant site perimeter storage bunds and freshwater/temporary silt lagoons. It would also site wheel wash and wheel spinner within the plant site. In addition, the revision would provide for Great Crested Newt ponds, along with a temporary standoff for Great Crested Newt mitigation.
37. The omission of the CBP and setting back extraction in the LMH from the bromate plume would not result in a substantially different scheme to that considered by HCC when it refused the application. However, the proposed revised access arrangements and pumping provision have the potential to result in changes that could have important implications. I deal with pumping later in this decision and consider next whether acceding to the appellant's request would be likely to be prejudicial to the interests of any person or party.
38. The CBP was intended to be operated by a subsidiary company of Brett Aggregates Limited, but the Inquiry was advised by the appellant that this is no longer the case. Deleting the CBP from the scheme at the appeal stage would not, therefore, be likely to be prejudicial to anyone. Ensuring an appropriate standoff for mineral extraction in the LMH to the bromate plume would be a matter that could potentially be addressed by the imposition of a suitable planning condition. So too, would be any necessary restriction on pumping, albeit with consequences for the overall design of the scheme, which are considered later in this decision. However, I have reservations about accepting, at this stage in the appeal process, the requested changes to access. I am also concerned about the amended scheme introducing confusion

¹⁸ ID17.1.

- with regard to the separation distances of the proposed excavation/infill from Popefield Farm.
39. Substituting Entrance Design 2015 Drawing HQ 3/2 for the 2021 version of HQ 3/2 Site Entrance and Weighbridge Area would bring activity associated with the weighbridge office, weighbridge deck-out and deck-in, weighbridge by pass, turning circle and provision for rejected loads, close to existing and planned residential development in Smallford located nearby to the south-west of the appeal site. The 2015 version of HQ 3/3 puts the W/B Office and Weighbridge within the Plant Site. This is an alteration that interested persons might reasonably wish to comment on and expect that their representations would be taken into account. Dealing with the appeal on the basis of the 2021 version of HQ 3/2 would deny this opportunity.
 40. Furthermore, the requested substitution of drawings would appear to result in the scheme showing different setback distances from the boundary of Popefield Farm for the excavation/infill of Phases A, B, D and F. The apparently contradictory drawings would mean that it is not clear what setback is now proposed for the requested amended scheme. I consider that the planning process should provide an opportunity for meaningful consultation about the likely effects of the proposed development on Popefield Farm and its occupiers.
 41. Clarification about the proposed substitution of the November 2015 Drawings HQ 3/1, HQ 3/2 and HQ 3/3 with the August 2021 versions was made on 25 November 2021 and towards the end of the Inquiry.¹⁹ Those attending the Inquiry would have been able to make representations about the requested substitutions, albeit at a late stage in the proceedings. However, I cannot be certain that there were no other interested persons or parties, not attending or following the Inquiry online, who would have wanted to make representations about these substitutions had they been aware of the request.
 42. The 2021 application (No:PL/0232/21) has been the subject of consultation. However, that scheme refers to a whole set of different plans and drawings to those now requested to be considered at this appeal to amend the 2016 scheme. The opportunity to comment on PL/0232/21 is not a substitute for affording a reasonable opportunity for consultation on the requested amended scheme, as it evolved in the lead up to and during the Inquiry.
 43. With the requested substitution of plans, I consider that the proposed development would be so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of consultation. In the circumstances, I consider that a significant likelihood of prejudice would arise if the appeal was dealt with on the basis of the amended scheme and substituted drawings suggested to the Inquiry. I find that the *Wheatcroft* and *Holborn* principles are not satisfied here and decline the request to determine the appeal on the basis of the suggested amended scheme with substituted drawings. I have therefore determined the appeal on the basis of the scheme and drawings that were before HCC when it refused the application, which included the CBP and proposed pumping of the LMH. In

¹⁹ 2021 drawing HQ3/8 is cited in the appellant's 2 November 2021 note, but with respect to the standoff for mineral extraction in the LMH to the bromate plume, not the siting of the weighbridge and associated development. Drawing HQ7/2, also cited in the 2 November note, moves the junction design shown on Drawing No.402.01009.00064.14H002 R4 5 m to the east, but does not show the location of the weighbridge.

the remainder of this decision the scheme considered by HCC in determining the application is referred to as the appeal scheme.

44. In the lead up to and during the Inquiry the appellant suggested a number of planning conditions and obligations intended to overcome objections to the appeal scheme. It seems to me that the correct approach in the circumstances that apply in this case is to first assess whether the scheme considered by HCC is acceptable, and if not, in accordance with paragraph 55 of the NPPF to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Main issues

45. The main issues in this appeal are:

- (a) Whether the development conflicts with policy to protect the Green Belt and the effects of the proposed development on the openness of the Green Belt and upon the purposes of including land within it.
- (b) The effects of the proposed development on hydrogeology and bromate contamination of groundwater.
- (c) The effects of the proposed development on the local amenity of the area and the living conditions of nearby residents, with particular reference to;
 - (i) dust, air quality and health,
 - (ii) noise and disturbance.
- (d) The effects of the proposed development on the character and appearance of the area, including cumulative effects.
- (e) Whether the effects of the proposed development on highway safety, flood risk, Public Rights of Way (PRoW), biodiversity, heritage assets or other matters weigh in the planning balance.
- (f) The need for sand and gravel, having regard to likely future demand for, and supply of, these minerals, along with the effects of the proposed development on employment and the economy.
- (g) If the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

46. The Government attaches great importance to Green Belts and the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The purposes of the Green Belt are; to check unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration.
47. NPPF paragraph 145 provides that local planning authorities should plan positively to enhance the beneficial use of Green Belts, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and

recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In considering applications substantial weight should be given to any harm to the Green Belt. The NPPF adds that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

48. NPPF paragraph 150 states that certain forms of development, including mineral extraction, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. What comprises 'mineral extraction' for the purposes of applying this policy is not defined in the NPPF. However, section 55 of the 1990 Act defines mining operations to include the removal of material of any description from a mineral-working deposit. With regard to the imposition of conditions for mineral working schedule 5 of the 1990 Act refers to the winning and working of minerals. Therefore, it seems to me that 'mineral extraction' should include plant and infrastructure necessary to facilitate the winning and working of minerals. However, any development that was not so necessary could not benefit from NPPF paragraph 150.
49. The appellant submits that it follows from the judgment in *Samuel Smith*²⁰ that openness will be taken into account in assessing harm to the Green Belt in a minerals case, but it will not be a bar to regarding minerals development as appropriate in the Green Belt. Even if that is correct it is still necessary to assess whether the development would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. NPPF paragraph 150 must mean that some level of operational development for mineral extraction in the Green Belt would preserve its openness and would not conflict with its purposes, and that beyond that level the development would become inappropriate in the Green Belt, and so the exception would no longer apply. Determining the tipping point would depend upon the particular circumstances, as a matter of fact and degree, but relevant considerations could include the siting, nature and scale of the operational development in its local context, along with its visual effects, duration and the reversibility of any adverse impact upon the openness and purposes of the Green Belt.
50. The appellant acknowledges that the CBP plays no direct role in the winning and working of minerals and that its presence or absence is irrelevant to operation of the quarry.²¹ I find that the CBP is not mineral extraction for the purposes of applying paragraph 150 of the NPPF. Therefore, the appeal scheme would be inappropriate development, which is by definition harmful to the Green Belt. The openness of the Green Belt would be impaired by the CBP. Furthermore, the appeal scheme with the inclusion of the CBP would not assist in safeguarding the countryside from encroachment, and so would conflict with one of the purposes of the Green Belt.

²⁰ *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3.

²¹ Appellant's Submission on Amendment dated 2 November 2021 paragraph 6 (c).

51. The following sections of this decision consider whether the appeal scheme would result in any other harm, and then has regard to other considerations, so that a balancing exercise can be undertaken to determine whether very special circumstances exist.

Hydrogeology

52. The appellant's Planning Statement provides that the majority of the LMH layer would be excavated 'wet' (beneath water) and that dewatering of the LMH would only be undertaken if required and while recharge capacity remained in the LMH recharge lagoon.²² Nevertheless, the proposal considered by HCC in determining the application included pumping as a necessary element of extraction. The appellant secured an abstraction licence, with no limit on the overall volume, to dewater the lower mineral aquifer. The lower mineral recharge lagoon was designed and sized to accommodate the expected volume of groundwater abstracted.

53. In considering the application it was reported to HCC that the EA raised no objection subject to the following criteria being met; no mineral extraction to take place from within the existing bromate plume, and any activities close to the plume must not change the existing hydrogeological flow regime or interfere with the remediation of the bromate pollution. The EA also requested submission of a Groundwater and Water Monitoring and Management Plan (GWMMP).²³ These criteria informed the three conditions recommended by the EA in its Statement of Case. In summary, these required approval of a GWMMP for each phase of the development, to include any necessary contingency action arising from monitoring, along with a mechanism for periodic review. The second condition concerned construction of the infiltration lagoons and back drain, and the third required implementation of the GWMMP, as refined, for the lifetime of the development.

54. During the course of the Inquiry experts from the EA, the appellant, HCC and AW continued to refine and redraft these suggested conditions.²⁴ At the close of the Inquiry the appellant stated that suggested Conditions 25-31 were agreed as to their effectiveness in avoiding unacceptable effects upon groundwater, and preventing any adverse effect on the bromate plume and/or being effective in detecting any adverse movement in the bromate plume.

55. Condition 25 provides for approval of the construction and water management of the infiltration lagoons and details of the upper mineral lagoon back-drain upon restoration. Condition 26 would require approval of the GWMMP prior to the commencement of development. It would also specify that the GWMMP include details about monitoring and sampling, along with phase specific boreholes for Phase A and water management in the infiltration lagoons. Condition 27 would require a revised GWMMP for subsequent phases prior to extraction from the LMH. An action plan would be required by Condition 28 if monitoring indicated that bromate concentrations exceeded a defined trigger level, with a response plan, along with cessation of excavation in the LMH until approval of the response plan, required by Condition 29 if a specified higher concentration trigger level was exceeded. The underlying chalk aquifer would

²² CD1.1 paragraph 3.40.

²³ CD1.7 paragraphs 8.45 and 8.46.

²⁴ The final version of the Suggested Conditions is at ID49.3.

be protected by providing that no excavations of the LMH shall take place at the base of the quarry within 1 m of the chalk aquifer (Condition 30).²⁵

56. Suggested Condition 31 states “No pumping of groundwater from the lower mineral horizon is permitted within any part of the mineral working”. With a ‘no pumping condition’ and appropriate triggers for interventions imposed, HCC indicated at the Inquiry that there was no reason for refusal based on groundwater impacts and the safety of the public water supply. The agreed scheme of conditions put to the Inquiry was accepted by HCC as resolving its fourth reason for refusal.
57. However, CHPC maintained its objection regarding the proposed GWMMP, the EA’s remediation plan and borehole monitoring, and considered that the risk of bromate to public health posed by the appeal scheme was too high. EARA&SRA disputed just how close the plume actually is to the dig site given the gap between boreholes BH104 and BH106 on the northern edge of the appeal site, along with variations in the pumping rate at Bishops Rise. The EA’s first remediation plan was considered by EARA&SRA to have completely failed to eradicate the plume or even reduce it in size, and so submitted that no quarrying should be allowed near the plume. Reservations were also raised about the proposed GWMMP’s ability to address wider hydrogeological considerations in the locality incorporating cumulative effects with the nearby Cemex facility.
58. EARA&SRA’s hydrogeology expert also questioned the stability of the plume and raised concerns about the inert fill causing permanent groundwater plume diversions in the LMH, possibly pushing the plume further to the north beyond the capture of Bishops Rise.²⁶ However, given the depth and horizontal extent of the proposed infill in comparison to the depth and overall capacity of the underlying chalk to transmit groundwater, I do not consider that any risk of the inert fill adversely impacting on the effectiveness of scavenge pumping at Bishops Rise should weigh significantly against the proposal.
59. It was evident at the Inquiry that the dynamic interaction of several hydrogeological factors here results in considerable complexity, which make it problematic to predetermine the likely impact of dewatering the LMH, with the certainty required in this case, given the risk posed by the bromate plume. Notwithstanding the extant licences, which impose no limit on the overall volume of groundwater abstracted, the expert evidence to the Inquiry points decisively to a compelling need to prohibit pumping from the LMH. It was clear at the close of the Inquiry that it would be necessary and reasonable to impose a planning condition to prevent pumping from the lower mineral aquifer.²⁷
60. In addition, to reduce the risk of exacerbating bromate pollution to an acceptable level, it would be necessary to impose monitoring trigger levels for bromate concentrations that would necessitate intervention by means of action/response plans. However, I am not convinced that the suggested conditions would give proper effect to the EA’s initial requirement that any

²⁵ It was clarified at the Inquiry that the AOD for the top of the chalk aquifer would be established by boreholes in each phase.

²⁶ ID63.

²⁷ In doing so I have had regard to paragraph 188 of the NPPF, which states that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes), and that planning decisions should assume that these regimes will operate effectively.

activities close to the plume must not interfere with the remediation of the bromate pollution. It seems to me that the monitoring locations for assessing compliance with these trigger levels would need to be the subject of further consideration and approval based on the best available evidence, including that provided by additional boreholes. It would not be appropriate to impose a condition specifying a setback for extraction in the LMH from borehole BH104 because it is not clear that this currently defines the southern limit of the bromate plume, and even if it did so, that it would remain the southern limit in the future.

61. Nevertheless, I consider that it would be possible to devise planning conditions to address these matters by specifying provisions for monitoring locations and ensuring that action/response plans included explicit provision for the cessation of excavation in the LMH if there was evidence that it was interfering with the remediation of the bromate pollution. In these circumstances it would be necessary for this cessation to endure for the lifetime of the development unless the Mineral Planning Authority determined that compelling evidence demonstrated that excavation in the LMH could resume without any adverse effect on the remediation of the bromate pollution.
62. Subject to the imposition of such conditions, I am satisfied that the risk from bromate pollution could be reduced to an acceptable level. On this basis, I find no conflict with local or national policies concerning groundwater pollution. With appropriate planning conditions any residual risk of the appeal scheme exacerbating bromate pollution would not weigh significantly in the planning balance.

Local amenity

63. There is local concern about the appeal scheme adversely impacting on the amenity of the area because of noise, dust and health considerations. However, except for likely effects on the occupiers of Popefield Farm considered below, I am satisfied that the imposition of appropriate planning conditions would reasonably address concerns about local amenity considerations. There is no convincing evidence that dust, emissions of respirable crystalline silica, or other effects of the appeal scheme on air quality, would impair the health of those living nearby or visiting the local area.
64. I have taken into account the appellant's noise assessment and note that the proposed perimeter bund would extend along Hatfield Road and around Popefield Farm. Drawing HQ 3/7 states that the bund along Hatfield Road would be 3 m high with 1:2 slopes and a 5 m stand off from the toe of the bund to the extraction area and site boundary. But the note does not specify details for the bund around Popefield Farm. Notwithstanding compliance with the suggested noise conditions, I consider that the proximity of the excavation/infill operation, in the absence of further details about the intervening bund, could at times result in a significant adverse effect on the residential amenity of those living at Popefield Farm.
65. In particular, the use of large diesel vehicles emitting low frequency noise and/or tracked vehicles such as bulldozers with distinctive noise characteristics, would at times result in intrusive noise not likely to be properly captured by the $L_{Aeq,1hr}$ indices proposed in the suggested noise conditions and advised in the PPG. Disturbing noise from the appeal site would be likely to recur periodically over the 32-year duration of the operation because of the proposed phasing;

with Phase A to the north-east of Popefield Farm (HQ 3/7), Phase B to the north (HQ 3/8 and HQ 3/9), Phase D to the north-west (HQ 3/10 and HQ 3/13) and Phase F to the west (HQ 3/14 and HQ 3/15). The likelihood of repeated noise disturbance, albeit intermittently, over such an extended period would result in the appeal scheme having an enduring adverse effect on the living conditions of the occupiers of Popefield Farm.

66. I find that the appeal scheme, subject to appropriate planning conditions, would not be likely to result in any significant adverse health effects for those residing near or visiting the area. However, on the evidence submitted, I am not satisfied that it would provide an appropriate buffer zone to protect the amenity of residents of Popefield Farm, as required by the Specific Considerations for PA1.

Character and appearance

67. The ES2016 found that there would be moderate adverse effects on the landscape and visual amenity of the area during working phases, but beneficial effects after restoration. I have taken the appellant's landscape and visual impact assessment into account, along with the evidence to the Inquiry and what I saw at my site visits. It seems to me that the appellant understates the likely impact of the operation on extensive areas over a long period of time within a locality that includes a Country Park.
68. The appeal site lies within 'Area 31 De Havilland Plain' in the 2005 Welwyn Hatfield Landscape Character Assessment. This area is characterised as an extensive level plain. In this flat landscape structures rising above the existing ground level would be prominent features. Large, high or extensive structures could obstruct or shorten views across the wider landscape. The CBP, other plant, stockpiles and bunds associated with the appeal scheme would be seen as intrusive features in this flat landscape, especially in the context of the surrounding Country Park. This would have an impact on sensitive receptors visiting the Country Park to enjoy the open space and the contrast it provides to nearby urban areas and activities. MLP Policy 12 provides, amongst other things, that regard would be given to the visual impact of proposals on sensitive landuses, including areas of public access.
69. Measures could be imposed by planning condition to minimise any adverse effects of light spill from the operation. However, the proposed road widening and new access junction on the A1057, with its associated visibility splays, would require the removal of much roadside vegetation. This would open up a gap in a feature that contributes to the sense of countryside separating urban development in St Albans and Hatfield. The NPPF provides that the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality should be taken into account. The proposed CBP would be seen in the same view as the Cemex facility from some vantage points in and around the Country Park. This would result in a cumulative adverse visual effect that would be at odds with MLP Policy 11 concerning unacceptable cumulative impacts.
70. The appeal scheme, even with progressive restoration, would have an adverse effect on the character and appearance of the area for 32 years, which in landscape terms is considered a long-term impact. With appropriate planning conditions for restoration and aftercare the appeal site would eventually provide an enhanced landscape for this part of the former airfield in accordance

with MLP Policies 13 and 14. But it seems to me that this benefit would arise so far into the future that it would not compensate for the cumulative harm over the long operational period of the appeal scheme.

71. For the reasons set out above, I consider that the appeal scheme would have an adverse effect on the character and appearance of the area of moderate/substantial significance.

Traffic movements

72. There is local concern that additional HGVs from the appeal scheme on the local road network would impair the safety of other highway users, including cyclists. It was apparent from my site visits and the evidence submitted to the Inquiry that the A1057 is at times a busy road frequently used by other quarry vehicles.

73. However, suggested Condition 56 would limit HGV movements to 174 (87 in and 87 out) on each day from Mondays to Fridays, and to not more than 108 movements (54 in and 54 out) on Saturdays. Co-location of the CBP with extraction and processing of sand and gravel would assist in minimising HGV movements generated by the appeal scheme. Condition 15 would provide for a scheme to be approved requiring HGVs to exit the site only eastbound towards the A1001, and Condition 16 would require approval of a traffic management scheme. The appeal scheme would, subject to the imposition of appropriate planning conditions, make necessary provision for vehicular access to the A1057 via a junction that would incorporate a right-turn lane.²⁸ The 2021 s106 agreement provides for financial contributions towards other highway improvements.

74. The technical highways evidence indicates that HGVs associated with the appeal scheme would not have an unacceptable impact on highway safety. Subject to the imposition of appropriate planning conditions, I find no grounds to dismiss the appeal for highway safety reasons concerning HGV movements and find no conflict with relevant local and national policies in this regard. However, I say more about pedestrian safety later in this decision regarding permissive rights of way.

Flood risk

75. Evidence was submitted to the Inquiry about flooding of local roads in the vicinity of the appeal site. However, it seemed from my site visits that local flooding near Popefield Farm could be related to an existing pond that lies outside the appeal site and to inadequate roadside drainage. I am satisfied that the submitted FRA and expert evidence to the Inquiry indicates that surface water within the appeal site could be readily managed, particularly given the proposed perimeter bunds and onsite lagoons, so as to not adversely impact on nearby properties or the local drainage network. This is a matter that could be adequately addressed by the imposition of appropriate planning conditions, so that the appeal scheme would have a neutral effect on flooding. I find no conflict with local or national policies concerning flood risk.

²⁸ ID26.

Access to the Country Park

76. There is evidence from my site visits and representations to the Inquiry to indicate how much the public access rights secured in the 2000 s106 agreement are appreciated locally. Informal paths within the Country Park are well used. As a large open space, the Country Park provides opportunities for circular walks that include routes through relatively isolated and quiet areas. The 2000 s106 agreement provides for public access to be excluded when minerals are being extracted pursuant to a planning permission. Therefore, it seems to me that specifying an access strategy as an integral part of any grant of planning permission is an important consideration in this case.
77. However, I consider that the appeal scheme does not provides sufficient certainty in this regard. The appeal scheme does not make a clear distinction for each phase between areas of the appeal site that would be accessible to the public and where they would be excluded because of mineral extraction. The Phase Illustration drawings show permissive rights of way traversing areas that are not shown as required for mineral extraction. Such areas, in accordance with the 2000 s106 agreement (unless there is some specific provision in a grant of planning permission for mineral extraction to say otherwise), would remain accessible to the public.
78. In addition, some of the permissive rights of way identified on the application drawings would not provide routes that would be likely to be attractive to those visiting the Country Park. The Phase Illustration drawings indicate permissive rights of way terminating on the northern side of the A1057.²⁹ Users seeking a circular walk would have to cross this busy route to walk along the footway on the southern side of the road. Given the speed of traffic and poor sight lines for pedestrians along this northern side of the road, such crossings, especially with groups of people that might include children or dogs, would be hazardous.
79. The 2021 s106 agreement provides for the dedication of bridleways that would be beneficial in the long term. However, the appeal scheme does not provide an appropriate strategy for public access throughout the lifetime of the operation that properly takes into account the provisions of the 2000 s106 agreement. Furthermore, some of the proposed permissive rights of way would pose an unacceptable risk to the safety of pedestrians.

Biodiversity

80. The NPPF provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, providing net gain for biodiversity. I have had regard to local reservations about the effects of the proposal on wildlife, but I am satisfied that the long-term ecological benefits of the progressive restoration would be sufficient to compensate for the harm to biodiversity during extraction/infill over the operational period. This would result in an overall enhancement for biodiversity, albeit that the full benefits would only accrue a considerable time into the future. Notwithstanding that biodiversity net gain is a policy requirement, this is a benefit of some significance in this case that would accord with MLP Policy 9 and should attract slight weight.

²⁹ Drawings HQ3/7-10, and HQ3/13-15.

Heritage assets

81. The ES2016 concluded that there would be a minor adverse effect upon views of and from Popefield Farm during the operational phase. But that after restoration, which would include hedge planting to recreate the 1888 historic field pattern with the aim of reinstating the broader landscape setting of Popefield Farm, there would be a minor beneficial effect. However, I consider that this understates the likely impact of the operational phases of the appeal scheme on the setting of the listed building.
82. It was apparent from my site visit that the current open character of the land to the east, north and west of Popefield Farmhouse helps to create a sense of open countryside reminiscent of that which would have contained the historic buildings prior to the construction of the airfield. The current setting of Popefield Farmhouse therefore makes some contribution to the significance of the listed building. The proximity of bunds and activity associated with extraction/infill in Phases A, B, D and F would diminish appreciation of the farmhouse in its local context for a substantial period of time. The resultant harm would outweigh the eventual benefits to the setting of Popefield Farm of the proposed site restoration. I consider that the overall effect of the appeal scheme would result in less than substantial harm to the significance of the designated heritage asset.
83. I find that harm to the listed building would be at the lower end of the scale of less than substantial harm, which nonetheless attracts considerable importance and weight. In accordance with NPPF paragraph 202 this harm should be weighed against the public benefits of the appeal scheme.

Need for minerals and provision for inert infill

84. There is evidence that available reserves of sand and gravel in Hertfordshire have been in decline since 2010. At the time of the Inquiry the current landbank was 5.9 years.³⁰ This is a significant shortfall given that the NPPF requires planning for a steady and adequate supply of aggregate by maintaining a landbank of at least seven years for sand and gravel. The PPG provides that low landbanks may be an indicator that suitable applications should be permitted as a matter of importance to ensure the steady and adequate supply of aggregates.
85. I have taken into account the decision to grant planning permission for further sand and gravel extraction at the Coopers Lane site subject to completion of a section 106 agreement. But that agreement remained incomplete at the close of the Inquiry. I have also had regard to the importance of the allocated PA1 site to HCC's forward planning for the provision of sand and gravel over a long period, and in meeting the need for minerals to provide for the infrastructure that the country needs. HCC agreed at the Inquiry that this site is needed to maintain a policy compliant landbank.³¹
86. The appellant advised that the operation would require a core staff of six employees, with up to 10 employed during earthmoving works on a campaign basis. The appeal scheme would, therefore, provide local employment and make a contribution to the local economy.

³⁰ ID14.

³¹ ID9 footnote 1.

87. I am satisfied that the appeal scheme would accord with the waste hierarchy and the WCS&DMPD if subject to the imposition of planning conditions specifying that waste acceptance procedures for the site would include approved measures to ensure that inert infill did not include material that could be recovered as recycled aggregate. On this basis the appeal scheme would accord with MLP Policies 7 and 15.
88. The contribution the appeal scheme would make to the provision of needed minerals and to the local economy is a matter of substantial significance that should, in accordance with the NPPF, be given great weight.

Appraisal of the appeal scheme

89. The harm I have identified from the appeal scheme to the Green Belt should, by definition, be given substantial weight. In addition, I have found that the appeal scheme would have an adverse effect on the character, appearance and amenity of the area, which should be given moderate/substantial weight. The harm to the listed building at Popefield Farm weighs against the proposal. But this less than substantial harm would be outweighed by the public benefits of the scheme in providing needed sand and gravel. With appropriate planning conditions any increased risk to highway safety from HGVs associated with the appeal scheme would be negligible, but some of the proposed permissive paths would be hazardous for pedestrians and the resultant harm weighs against the appeal scheme. Subject to the imposition of appropriate planning conditions, I consider that the risk to groundwater is a matter that would not weigh significantly in the planning balance.
90. Given the current landbank for sand and gravel, I have found that the contribution of minerals from the appeal scheme would be a benefit of substantial significance. Employment provision and other operational aspects of the development would make a modest but nonetheless significant contribution to the economy. The co-location of the CBP would be of some advantage in minimising HGV movements. These benefits should be awarded great weight, as required by the NPPF. The appeal scheme would have some benefits for biodiversity in the long term that should be given slight weight in the planning balance.
91. The dedication of bridleways would be of some benefit. However, the 2000 s106 agreement already secures public access provisions and so the benefits to the PRoW network of the appeal scheme cannot be given much weight. The temporary nature of the works, along with progressive site restoration, should not be given much weight as benefits of the appeal scheme because they are policy requirements for mineral extraction.
92. I consider that the harm to the Green Belt, along with the harm to the character, appearance and amenity of the area, and to pedestrian safety, is not clearly outweighed by the benefits of aggregate extraction and co-location of the CBP, along with the contribution the appeal scheme would make to employment provision, the economy, biodiversity and the PRoW network. In my judgement, the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, and the very special circumstances necessary to justify the development do not exist. I find that the appeal scheme would be contrary to national Green Belt policy set out in the NPPF.

93. For the above reasons, I consider the appeal scheme to be an unacceptable form of development. I have therefore assessed whether this otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Conditions and obligations

94. The proposed development considered by HCC included a CBP, and the inclusion of a CBP was confirmed in the October 2021 SoCG. However, a unilateral undertaking, dated 8 December 2021, provides that the owner and developer of the appeal site covenant that should planning permission be granted they will not construct nor operate any CBP forming part of the development.³² Omission of the CBP would have some implications for the layout of the plant area, and would remove the co-location benefits claimed by the appellant. But it would exclude from the proposal an element of inappropriate development in the Green Belt. This omission would have significant implications for the application of national policy.
95. As set out above a 'no pumping condition' would be necessary, but this could have implications for the size and design of recharge lagoons. The configuration of the recharge lagoons shown on the application drawings would have taken into account the likely potential volume of discharge to the LMH lagoon from groundwater pumped from the LMH. However, there is no evidence before the Inquiry to indicate what size and configuration for the recharge lagoon would be necessary for a scheme that included a condition that no pumping of groundwater from the LMH would be permitted within any part of the mineral working.
96. In the absence of such evidence, it is not possible to determine that the LMH recharge lagoon shown on the application drawings is necessary for mineral extraction. If a lagoon of that size was not necessary, the scheme would include an element of inappropriate development, even if the CBP was omitted. If NPPF paragraph 150 did not apply it would be necessary to assess whether the potential harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. That is a matter that would need to be decided in granting planning permission and so it would not be reasonable to leave details about the recharge lagoon for subsequent discharge of a planning condition along the lines of that suggested in Condition 25(i).
97. Other planning conditions suggested by the appellant raise similar issues about the subsequent approval of details that collectively could be relevant in determining whether planning permission should be granted. These include; the layout of the plant site area (Condition 6); full details of bunding adjacent to Popefield Farm, on the western boundary, and immediately to the south of the processing plant (Condition 9); the location of haul roads (Condition 10(vii)); details of the site layout between the junction with the public highway and weighbridge, including the weighbridge, to include sufficient provision for queuing vehicles to stand clear of the highway and a loop road to return HGVs to the public highway (Condition 16(i)); a public access strategy to include routes for public rights of way across the site, to provide an appropriate level of public access to un-worked and restored areas of the site

³² ID17.3. In addition, a suggested condition states that "Notwithstanding that the description of the development contains reference to a CBP this permission does not provide consent for any CBP".

(Condition 18); measures to safeguard populations of Great Crested Newts during mineral extraction through safeguarding areas (Condition 23).

98. I acknowledge that for a phased mineral extraction/infill scheme over such a long period there would be some matters of detail that could appropriately be left for subsequent approval. However, the matters suggested by the appellant to be addressed by condition raise considerations of a more strategic nature that would need further specification or defined parameters to make explicit the scope, limits or requirements that would apply in considering such approvals. In the absence of further details about what would be necessary in discharging these conditions it is not possible for me to accurately assess the likely benefits/harm arising from these aspects of the proposal. In addition, these are matters that local residents and interested persons might wish to comment on before details were approved. There is no certainty that applications to discharge such conditions would be subject to the necessary consultation to facilitate a proper opportunity to do so.
99. The matters suggested by the appellant to be addressed by the discharge of planning conditions collectively deal with important considerations about the nature of the operation that could be influential in determining whether planning permission should be granted. In the circumstances that apply here, particularly having regard to the extant provisions for public access by virtue of the 2000 s106 agreement except where mineral extraction is undertaken in accordance with a planning permission, along with the 32-year period for the operation, it would not be reasonable for such specific details to be approved by discharge of planning conditions after planning permission had been granted for the development.
100. These considerations could go to whether the scheme would conflict with Green Belt policy, and potentially to what would be the appropriate planning balance in this case, along with the execution of that balance, and so to whether planning permission should be granted. I find that it is not possible on the evidence before me to conclude that the development could be made acceptable through the use of conditions or planning obligations.

Conclusions

101. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. HCC acknowledged at the Inquiry that the proposal, with appropriate conditions and obligations, would not conflict with the development plan. The MLP permits mineral working within PA1 only when it contributes to maintaining HCC's appropriate contribution to local, regional and national aggregate needs, along with fulfilling other identified requirements set out in the Inset Map for PA1.
102. The appeal scheme would make an important contribution to meeting the need for aggregate. Furthermore, the proposed reclamation as shown on HQ 3/11A Illustrative Restoration Concept 2016 would be consistent with the delivery of a Country Park. However, the evidence before the Inquiry does not establish that the requirement for an appropriate buffer zone to protect the amenity of residents of Popefield Farm has been met. The inclusion of the CBP would bring the proposal into conflict with MLP Policy 11 concerning unacceptable cumulative impacts. The appeal scheme does not accord with the provisions of the development plan taken as a whole. Other material

considerations here include the SPG and the NPPF. The appeal scheme would reasonably accord with the key principles of the SPG, but it would conflict with national Green Belt policy.

103. Furthermore, and an important consideration in this case, it has not been demonstrated that the development could be made acceptable through the use of conditions or planning obligations. I find that the proposal is at odds with the NPPF taken as a whole. There are no other material considerations in this case to indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Woolcock
Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Forsdick QC

Instructed by Hertfordshire County Solicitor

He called

Jenny Lightfoot BSc(Hons) MSc
Christopher Tunnell BSc(Hons)
MPhil FRTPI FAcSS FRSA

Associate Ove Arup and Partners Ltd
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Leader Arup

FOR THE APPELLANT:

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Instructed by Andrea Bruce Knights plc

He called

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FOR COLNEY HEATH PARISH COUNCIL Rule 6 Party (CHPC):

Councillor Peter Cook

He called

MF Rawlins

FOR ELLENBROOK AREA RESIDENTS' ASSOCIATION & SMALLFORD RESIDENTS' ASSOCIATION Rule 6 Party (EARA & SRA):

Dr Michael Rivett FGS
Michael Hartung
Sue Meehan
Craig Tallents
John Jackson

Director GroundH₂o Plus Ltd
Member EARA
Member EARA
Chair Smallford Residents' Association
Member EARA

FOR ENVIRONMENT AGENCY Rule 6 Party (EA):

Kai Mitchell Clay Durrant BSc(Hons) EnvSci	Sustainable Places Planning Specialist Technical Officer (Groundwater and Land Quality)
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FOR AFFINITY WATER Rule 6 Party (AW):

Dr Ilias Karapanos John Rumble	Asset Specialist Environmental Planning Senior Assets Manager Environmental Policy and Strategies Team
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INTERESTED PERSONS:

Councillor John Hale	HCC Colney Heath & Marshalswick
Councillor Margaret Eames- Petersen	Hatfield Town Council
David Jackson	Local resident
Stephen Ross	Local resident
Rita Burhouse	Local resident
Jeff Lewis	Local resident
Simon Willett	Local resident
Kathryn Gentry	Local resident
Harriet Pickard	Local resident
Nigel Quinton	Local resident
CLlr Duncan Bell	Welwyn Hatfield Borough Council
CLlr Jacqueline Brennan	Hatfield Town Council and local resident

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

ID	1.1	Notification Letter – Failure to Send Note from HCC
	1.2	Updated note with attachments
ID	2	Statement of Common Ground - Operational Detail: Comparison of impact on Green Belt between Cemex Hatfield Quarry and the proposed Brett site
ID	3	Updated opinion of Jenny Lightfoot (HCC Hydrogeology)
ID	4	Statement of Common Ground – Questions and Clarifications SLR 28 October 2021
ID	5	Pumping Test Assessment Report SLR September 2018
ID	6.1	Statement by Councillor Margaret Eames-Petersen Hatfield Town Council
	6.2	Slides from PowerPoint presentation
	6.3	Hatfield Town Council: objection to Brett Quarry – 2 nd application
	6.4	Summary of Independent Expert opinion on groundwater contamination
	6.5	Additional highway evidence – including HTC Appendix 2:Transport evidence November 2021, Critique of Brett Transport and EIA Report, cycle route, Freight Lorry Travel, Hatfield Key Corridors
	6.6	HTC Response to MLP consultation March 2019

ID	7	Statement by County Councillor John Hale Colney Heath & Marshalswick
ID	8	Opening Statement on behalf of the Appellant – including Submissions on amendment
ID	9	Opening Comments on behalf of Mineral Planning Authority
ID	10	Colney Heath Parish Council Opening Statement
ID	11	Opening statement by Ellenbrook Area Residents’ Association and Smallford Residents’ Association
ID	12	Environment Agency Opening Statement
ID	13	Statement of Craig Tallents Chair of Smallford Residents’ Association on behalf of Ellenbrook and Smallford Residents’ Associations in respect of the dealing of the appeal based on an amended scheme
ID	14	HCC Local Aggregates Assessment 2021
ID	15	Dr Rivett Outline response to updated Statement of Common Ground and Jenny Lightfoot Proof of Evidence
ID	16	Annual Monitoring Report HCC April 2020 - 31 March 2021
ID	17.1	Draft unilateral undertaking
	17.2	Updated version discussed at Inquiry on 26 November
	17.3	Unilateral undertaking dated 8 December 2021
ID	18	Diagram showing water level at 67m AOD with annotation “new water level if aquifer is confined will require pumping to LML lagoon”
ID	19	SLR Drawing No.2 February 2019 LMA Bromate Concentrations and tables showing borehole data for Bromide within the site
ID	20	Bromate contamination significant to the proposed quarrying activity at the Hatfield aerodrome by Mike Hartung for EARA&SRA
ID	21	HCC note about Member engagement in Statement of Case and Opening Statement at Inquiry
ID	22	Written representation by Sandridge Parish Council
ID	23	Written representation by Susan Jackson
ID	24.1	Costs application by appellant
	24.2	Update re costs application dated 3 December 2021
ID	25	Note by SLR on groundwater conditions
ID	26	Note on highways by SLR
ID	27.1	Drawing showing suggestion of 50 m wide bund
	27.2	Appellant’s drawing showing 4 m high screen (20 m wide) along southern boundary of processing area
ID	28	Statement by Stephen Ross
ID	29	Statement by Rita Burhouse
ID	30	Statement by Jeff Lewis
ID	31	Statement by Simon Willett
ID	32	Statement by Kathryn Gentry
ID	33	Statement by Harriet Pickard
ID	34	Statement by Cllr Nigel Quinton with attachments
ID	35	Statement by Cllr Duncan Bell
ID	36	Statement by David Stuart-King
ID	37	Written representation by Jonathan & Vicky Renaudon-Smith
ID	38	Written representation by Mr & Mrs Musk
ID	39	Written representation by Caroline Churchill
ID	40	Written representation by Nita Fitch
ID	41	CHPC statement on not hearing 2021 application
ID	42	Statement by Cllr Jacqueline Brennan
ID	43	Popefield Farm PowerPoint slides by David Jackson

ID	44	Written representation by Graham and Pat Moore
ID	45	Written representation by Alan Fitch
ID	46	Appellant's note on application site and Preferred Area 1
ID	47	Erratum Note Re: BALS_01 Noise Proof_ Issued for Inquiry by Michelle Dawson
ID	48	Appellant's note on Abstraction Licences and Permit issued to Brett by the Environment Agency
ID	49.1	Draft suggested planning conditions
	49.2	Updated draft conditions discussed at Inquiry on 26 November
	49.3	Updated suggested conditions submitted 2 December 2021 with tracked changes, list of plans for Condition 5 (no substitution), with email from appellant with comments on amendments, and email 3 December with comments by CHPC/EARA&SRA
	49.4	Comments on suggested conditions by CHPC/EARA&SRA sent 5 December 2021
ID	50	Appellant's note on amendment and substitution of plans 25 November 2021
ID	51.1	Draft s106 agreement
	51.2	Updated draft s106 discussed at Inquiry on 26 November
	51.3	Updated draft s106 submitted 2 December 2021
	51.4	s106 agreement dated 10 December 2021
ID	52	Comment and objection by S Greengrass
ID	53	Listed building description for Popefield Farm
ID	54	Email dated 26 November 2021 and written statement by John Eames-Petersen
ID	55	Written statement by Salisbury Village Residents' Group
ID	56	Email from HCC re private law rights of Arlington
ID	57.1	Application for costs by CHPC and EARA&SRA against the appellant
	57.2	Application for costs by CHPC and EARA&SRA against HCC
ID	58	Written statement by Cllr John Percival
ID	59	Written statement by Hilary Carlen
ID	60	Written statement by Gavin Ross
ID	61	Written statement by Gareth Aicken
ID	62	Email dated 30 November 2021 and written statement by Mr Kanayo Chianakwalam
ID	63	Invited further response to SoCGH by Dr Michael Rivett
ID	64	Conditions CHPC EARA&SRA proposals
ID	65	Email dated 3 December 2021 from Laura Cook concerning potential impact of lorries
ID	66	Item 8 Committee 13 December 2021 Minerals and Waste Development Scheme
ID	67	HCC CIL Compliance Statement
ID	68	HCC Response to Rule 6 Parties' Costs Application
ID	69	HCC Response to Appellant's Costs Application
ID	70	Comments on Appellant's Response to HCC Costs Application
ID	71	Colney Heath Parish Council (CHPC) Closing Statement
ID	72	Ellenbrook Area and Smallford Residents' Associations Closing Statement
ID	73	Closing on behalf of Hertfordshire County Council
ID	74	Costs application on behalf of HCC dated 25 November 2021
ID	75	Closing submissions on behalf of the appellant
ID	76	Appellant's reply to HCC's costs application 3 December 2021
ID	77	Appellant's reply to CHPC EARA&SRA costs application 2 Dec 2021

PLANS

Application plans

HQ 2/1 Site Location Plan Nov 2015
HQ 2/3 Topographic Survey Nov 2015
HQ 3/1 Overall Phasing/General Layout Nov 2015
HQ 3/2 Entrance Design Nov 2015
HQ 3/3 Plant Site (Masterplan) Nov 2015
HQ 3/4 Processing Plant Detail Nov 2015
HQ 3/5 Plant Elevations Nov 2015
HQ 2/2 Application Site Layout Nov 2015
HQ 3/6 Initial Site Preparation Dec 2015
HQ 3/7 Phase A – Illustration Dec 2015
HQ 3/8 Phase B – Illustration Dec 2015
HQ 3/9 Phase C – Illustration Dec 2015
HQ 3/10 Phase E – Illustration Dec 2015
HQ 3/11A Illustrative Restoration Concept Aug 2016
HQ 3/12 Illustrative Sections Dec 2015
HQ 3/13 Phase D – Illustration Aug 2016
HQ 3/14 Phase F – Illustration Aug 2016
HQ 3/15 Phase G – Illustration Aug 2016

CORE DOCUMENTS

CD01 PLANNING APPLICATION 1 (2016)

CD 1.1 - Planning Statement
CD 1.2.1 - Environmental Statement
CD 1.2.2 - Environmental Statement Drawings
CD 1.2.3 Environmental Statement Appendices
CD 1.3 - Transport Chapter Addendum
CD 1.4 - Committee Report dated 25 January 2017
CD 1.5 - Committee Report dated 18 December 2019
CD 1.6 - Groundwater Management Plan and Borehole Monitoring Data 2013-2019 submitted January 2020
CD 1.7 - Committee Report dated 24 September 2020
CD 1.8 - Decision Notice (refusal) dated 6 January 2021
CD 1.9 - Application Drawings

CD02 PLANNING APPLICATION 2 (2021)

CD02.01 Planning Statement
CD02.02-1 Environmental Statement
CD02.02-2 Environmental Statement Drawings
CD02.02-3 Environmental Statement Appendices
CD02.02-4 Appendix 11-01b BNG Assessment (Biodiversity Metric 3)
CD02.02-5 Appendix 11-07f Desk Study Data (Species Search Results)

CD03 POLICY

CD03.01 Hertfordshire Minerals Local Plan Review 2002-2016 (adopted 2007)
CD03.02 Emerging Hertfordshire Minerals Local Plan
CD03.03 Hatfield Aerodrome Supplementary Planning Guidance

CD03.04 Hertfordshire Local Aggregate Assessment 2020

CD03.05 Waste Core Strategy and Development Management Policies 2011-2026

CD03.06 Welwyn Hatfield District Local Plan 1994, reviewed 2020 (adopted in 2005)

CD03.07 St Alban's District Local Plan Adopted 2005 1994, reviewed 2020

CD04 GREEN BELT

CD04.01 Green Belt Review Purposes Assessment Prepared for Dacorum Borough Council, St Albans City and District Council and Welwyn Hatfield Borough Council Final Report November 2013 (with relevant annexes)

CD04.02 Hertfordshire Minerals Local Plan Site Selection Report

CD05 WATER ENVIRONMENT

CD05.01 Affinity Water Letter to HCC dated 13 August 2018

CD05.02 Affinity Water Letter to HCC dated 18 December 2018

CD05.03 Affinity Water Letter to HCC dated 20 May 2019

CD05.04 Affinity Water Rule 6 Statement

CD05.05 Bromate Monitoring Data 2012-2019 (as submitted to HCC)

CD05.06 Report of Dr Rivett for Hatfield Town Council: Expert Opinion on: Groundwater contamination aspects of the proposed quarrying activity at Hatfield Aerodrome (Groundwater Management Plan and SLR Borehole Data)

CD05.07 Response to Dr Rivett Report SLR Ref 402.09887.00001 Version no. 1 June 2020

CD05.08 Environment Agency Letter to HCC dated 18 December 2019

CD05.09 Environment Agency Letter to HCC dated 28 August 2019

CD05.10 Environment Agency Letter to HCC dated 30 August 2019

CD05.11 Environment Agency Letter to HCC dated 10 October 2019

CD05.12 Environment Agency Letter to HCC dated 3 July 2020

CD05.13 Environment Agency Letter to HCC dated 5 September 2016

CD05.14 Environment Agency Letter to HCC dated 6 July 2018

CD05.15 Environment Agency Letter to HCC dated 3 January 2019

CD05.16 Environment Agency Letter to CHPC dated 15 October 2021

CD05.17 Voluntary Remediation Statement (unsigned version)

CD06 NOISE

CD06.01 Design Manual for Roads and Bridges LA 111 Noise and Vibration

CD06.02 World Health Organisation Guidelines for Community Noise (WHO 1999)

CD06.03 Environmental Noise Guidelines for the European Region document (WHO 2018)

CD06.04 Department of Transport and Welsh Office memorandum Calculation of Road Traffic Noise (CRTN) published in 1988

CD06.05 BS5228:2009+A1:2014 Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise

CD07 AIR QUALITY

CD07.01 Guidance on the Assessment of Mineral Dust Impacts for Planning, IAQM, May 2016

CD07.02 Technical Guidance Note (Monitoring) M17, Environment Agency

CD08 STATEMENTS OF COMMON GROUND

CD08.01 Statement of Common Ground dated 22 October 2021

CD08.02 Water Statement of Common Ground dated

CD09 RELEVANT CASES AND LEGISLATION

- CD09.01 Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government (2013)
- CD09.02 Turner v Secretary of State for Communities and Local Government (2016)
- CD09.03 SoS decision on the appeal of RJD Ltd and Gowling WLG Trust Corporation Limited against the decision of Hertfordshire County Council (Bengeo Quarry)
- CD09.04-0 R. (on the application of Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council (2020)
- CD09.04A SoS decision dated 13 March 2007 and Inspector's Report - Lodge House
- CD09.05 Wychavon District Council V Secretary Of State For Communities & Local Government and Butler (2008)
- CD09.06 Kemnal Manor Memorial Gardens Limited v First Secretary of State (2005)
- CD09.07 Regina (Timmins) and another v Gedling Borough Council 2015
- CD09.08 Compton Parish Council v Guildford Borough Council 2019
- CD09.09 Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government and others 2014
- CD09.10 Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000
- CD09.11 Case Prefaces (as requested in Pre-Inquiry Note)

CD10 PINS REGULATION 22 REQUEST RESPONSE (DOCUMENTS ADDITIONAL TO DOCUMENTS AT CD2.2)

- CD10.01 Letter dated 22 September 2021 from PINS to Appellant
- CD10.02 Letter dated 23 September 2021 from Appellant to PINS
- CD10.03 Table: Comparison of 2016 and 2021 Environmental Statements accompanying application reference 5/0394-16 (ES1) and application reference PL/0232/21(ES2)
- CD10.04 Noise Addendum dated October 2021
- CD10.05 Lighting Assessment dated October 2021
- CD10.06 ES Volume 2C: Non-Technical Summary (revised October 2021)
- CD10.07 Newspaper advertisement 13 October 2021

CD11 OTHER DOCUMENTS

- CD11.01 Committee Report for the Proposal for Mineral Working at Land Adjoining Coopers Green Lane at the HCC DM meeting on Thursday 22 October 2020
- CD11.02 Clarification email from Chris Lowden of SLR Consulting 8th October 2021 to the HCC Planning Officer
- CD11.03 - Section 106 Agreement dated 29 December 2000 made between Welwyn Hatfield DC (1) HCC (2) and others
- CD11.04 Abstraction Full Licence November 2018 (issue letter, licence, position statement covering letter and position statement)
- CD11.05 Abstraction Transfer Licence November 2018 (licence, position statement covering letter and position statement)
- CD11.06 Landfill Permit 2018 varied 2020
- CD11.07 Hatfield Section 106 Agreement