

BAL/7/1

HATFIELD AERODROME

Town and Country Planning Act 1990, Section 78

Application for the establishment of a new quarry on land at the former Hatfield Aerodrome, including a new access onto the A1057, aggregate processing plant, concrete batching plant and other ancillary facilities, together with the importation of inert fill materials for the restoration of the minerals working

Application Ref. 5/0394-16

Section 78 Appeal against refusal of planning permission by Hertfordshire County Council.

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

**Proof of Evidence (text) of Chris Lowden BSc
(Hons) MRICS, MIQ – Planning Policy**

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1.0 Introduction

Personal Details

- 1.1 My name is Christopher Lowden. I hold a Bachelor of Science degree in Minerals Estate Management having graduated in 1990. I am a Member of the Royal Institution of Chartered Surveyors (RICS) and Institute of Quarrying. I have over thirty years' experience in minerals and waste planning obtained through employment both in industry and consultancy sectors.
- 1.2 From 1990 to 1995 I worked for ARC Limited (now Hanson Aggregates) as an Estates Surveyor responsible for the management of the company's properties within Nottinghamshire, Derbyshire and Leicestershire, and latterly Central Staffordshire, together with supervising regional rating and waste management issues. Between 1995 and 2001 I was employed by RMC (UK) Limited (now Cemex) as a Senior Planning Officer responsible for providing planning services to RMC's aggregate companies operating throughout Wales, the South West and the North West of England.
- 1.3 From 2001 to present I have been employed by SLR Consulting Limited (SLR) as a Senior Planning Officer, being promoted to an Associate in 2003, Principal of the company in 2006 and Technical Director in 2013. My work with SLR has predominantly been in connection with the minerals and waste sectors, preparing planning applications and project managing EIAs for a range of developments including new and extensions to quarries covering a wide range of mineral types.
- 1.4 SLR is a leading environmental consultancy providing a wide range of services to the minerals sector. As such, the company has significant experience in the issues that are relevant to this Inquiry. SLR has been awarded the IEMA "EIA Quality Mark".
- 1.5 SLR was instructed in 2015 by the Appellant to undertake an EIA of the Appeal Scheme, prepare an Environmental Statement reporting on the findings of the EIA and submit a planning application to Hertfordshire County Council. SLR has been instructed by the Appellant to provide evidence specifically on planning matters, need, noise, and hydrology/hydrogeology in relation to this appeal.
- 1.6 As Project Manager, I have been involved in the application prior to its submission to Hertfordshire County Council (HCC) on 22 January 2016, and through the determination period. I led the team that prepared the planning application and Environmental Statement and was involved in discussions with HCC in relation to the planning application and Environmental Statement. I have visited the Appeal Site and the surroundings on several occasions and have examined the relevant plans and documents for the purpose of this Inquiry. I shall be giving general planning evidence covering various issues relating to National and local planning policy, and in particular the Development Plan policies.

Appeal Scheme

- 1.7 The Appeal Scheme is described in detail in the Environmental Statement (ES) [CD1.2], coupled with Drawings HQ3/1 to HQ3/15. It is also summarised within Section 2, Paragraphs 2.2 -2.12 of the report

to the Development Control Committee of Hertfordshire County Council dated 24 September 2020 [CD1.7]. This description has been agreed between the parties (see Statement of Common Ground [CD8.1]).

- 1.8 A request has been made to consider the appeal on the basis of a revised scheme whereby the concrete batching plant is removed from the description of the development in line with a planning application submitted in September 2021 [CD2.1 and CD2.2]. This scheme also moves the access road by 5m into the site and proposes a longer length of acoustic fence. In view of this I have considered both schemes in my evidence.

Site Description and Surroundings

- 1.9 Chapter 2 of the Environmental Statement [CD1.2], coupled with Drawings HQ 2/1 - HQ 2/3, provide a detailed description of the Appeal Site and its surroundings. This is summarised in Section 4, Paragraphs 4.1 – 4.7 of the report to the Development Control Committee of Hertfordshire County Council dated 24 September 2020 [CD1.7]; these paragraphs have been agreed between the parties and included within the Statement of Common Ground.

Reasons for Refusal

- 1.10 Planning permission was refused by the Council for four reasons relating to:
- Inappropriate development in the Green belt;
 - Duration of the development;
 - Unacceptable effects on the environment due to noise and dust due to HGV movements within and outside of the site;
 - Risks associated with bromate contamination.
- 1.11 The full text to the Reasons for Refusal are set out in the Statement of Common Ground [CD8.1] at paragraph 1.4.

Scope of Proof of Evidence

- 1.12 My proof of evidence covers planning policy relating to minerals, need and the Green Belt.
- 1.13 The following elements are considered:
- A review of relevant planning policy and how this has been considered in the Planning Officer's Report (Section 2);
 - A summary of comments made by Rule 6 parties and where they have been addressed (Section 3);
 - The effects of the Appeal Scheme on the Green Belt (Section 4).
 - The Planning Balance and Conclusions (Section 5)
 - Consideration of points raised by Rule 6 Parties and where the issues are addressed (Section 6)

- 1.14 This Proof of Evidence on planning is divided into 3 documents. This document, BAL/7/01, comprises the main text of my proof of evidence. Appendices A to D are provided in document BAL/7/02. Finally, a Summary of this Proof is provided in document BAL/7/03.
- 1.15 In preparing my evidence I have also had regard to the evidence provided by:
- Mr Gregor Mutch on operational aspects
 - Mr Simon Treacy on markets
 - Miss Michelle Dawson on noise
 - Mr Gordon Allison on air quality; and
 - Mr Peter Rowland on hydrogeology
- 1.16 I can confirm that the evidence which I have prepared and provide for this appeal reference APP/M1900/W/21/3278097 in this proof of evidence to be true, and that the opinions I have expressed represent my true and complete professional opinion, and complies with the requirements of the Royal Institution of Chartered Surveyors, as set down in “*Surveyors Acting as Expert Witnesses: RICS Practice Statement.*”

2.0 Planning Policy and Officers Report

- 2.1 In this Section I consider the Officers Reports to the Committee Development Control Committee in relation to relevant planning policies and the planning balance reached.

Planning Policy

- 2.2 To avoid unnecessary duplication I assume that the reader has read the officers reports **[CD1.4, CD1.5 and CD1.7]**. I also assume that the reader has read the Planning Statement **[CD1.1]** submitted with the planning application, particularly chapters 4 and 5 on Planning Policy and Need respectively. Together, the officers reports and the Planning Statement comprise a detailed evaluation of relevant planning policy at the national and local level along with setting out the factors that contribute towards the planning balance. I have also provided a policy summary in **Appendix A**.
- 2.3 Since the publication of the Planning Statement and the officers reports there has been little change to the policy landscape other than progressing the review of the adopted Minerals Local Plan and slight changes to the NPPF. I therefore consider that the content and conclusions of both remain valid.

Officers Reports

- 2.4 As noted in the SoCG, three detailed reports have been prepared and presented to Hertfordshire's Development Control Committee. In all three reports, the officer recommended that planning permission be conditionally granted, subject to the Appellant entering into legal agreements.
- 2.5 At the first committee meeting members agreed with the officer and resolved to grant planning permission. At the third meeting, members disagreed with the officer and resolved to refuse the application. Whilst all of the reports are similar, I will focus on the last as it is the most recent, and resulted in the refusal.
- 2.6 In arriving at the recommendation for approval, the Planning Officer identified¹ 12 key issues (dividing residential amenity into noise and air quality) to be considered in determining whether the application is acceptable, namely:
- The need for mineral working and maintaining an adequate supply of minerals within Hertfordshire (Minerals Policies 1 & 2)
 - The working of Preferred Areas (Minerals Policies 3 & 4)
 - Conformity with the site brief for Preferred Area 1 (Inset Map No. 6)
 - Green Belt
 - Ellenbrook Park
 - Environment effects in relation to:

¹ Paragraph 8.1

- groundwater pollution
- transport
- landscape and visual impact
- residential amenity - noise and air quality
- cumulative impact
- ecological impact

2.7 The 97 paragraphs following set out a detailed consideration of each aspect and for each, concluded that the Appeal Scheme would not run contrary to the NPPF or the Development Plan. In the table below, I set out the topic and the officers conclusion.

Table 2-1
Summary of Officers Findings Relating to Key Planning Issues

Topic	Comment	Para Ref.
Need for mineral / Maintaining adequate supply	The extraction 8MT of sand and gravel from the application site at a rate of 250,000 tonnes per annum for 32 years would make a significant contribution to the landbank, equivalent to an additional 5.75 years to the landbank (based on the annual apportionment), which would increase the overall landbank to approximately 12.9 years.	8.9
Working Preferred Areas	The phased reclamation, restoration and aftercare will ensure that the land is returned to a suitable condition for the intended use as a country park. The proposal does not conflict with the purposes of Policy 4 of the HMLP Review. The proposal is consistent with the NPPF in terms of maintaining an adequate and steady supply of sand and gravel from within Hertfordshire and the maintenance of an appropriate landbank above the minimum requirement. The proposal will assist in facilitating the sustainable use of minerals from within Hertfordshire.	8.16 & 8.17
Conformity with Site Brief	The proposed mineral working is therefore consistent with the site brief (shown on Inset Map No. 6) and accords with Policy 3(d) of the HMLP Review	8.28
Green Belt	With regards to the construction and operation of a processing plant, the ready-mix concrete plant, and screening bunds, whilst these are not mineral extraction, they are ancillary to, and form an integral part of the overall development. The co-location of the processing and wash plant and concrete batching plant with mineral extraction will avoid unnecessary haulage to site for processing and secondary manufacturing processes. Whilst these aspects of the development are regarded to be inappropriate development in the green belt, there are benefits to their co-location with mineral extraction in this location related to facilitating the sustainable use of minerals and sustainable transport. These positive aspects of the development may be regarded as very special circumstances. In addition, these aspects of the development will not preserve the openness of the Green Belt in this location throughout the development. Notwithstanding, they are temporary in nature and will be removed as part of the	8.37 & 8.38

Topic	Comment	Para Ref.
	<p>restoration of the site and the openness of the Green Belt will be preserved in the longer term.</p> <p>(Note. The officers conclusions on Green Belt are set out in Section 9 of the report and considered in the paragraphs following this table.)</p>	
Ellenbrook Park	<p>... Therefore, the applicant has proposed a unilateral undertaking with the County Council to the effect that it will not implement the minerals planning permission until the deed of variation has been completed with an 18 month expiry clause. Officers consider this will provide sufficient time for the parties to conclude the deed of variation. This should assure members that the Park will be delivered in accordance with the original obligation.</p> <p>Officers have taken advice regarding the ability for the county council to enforce the terms of the original obligation, and this will remain the fallback position if the deed of variation is not concluded in due course.</p>	8.33 & 8.34
Groundwater Pollution	<p>Having taken into account the environmental information submitted with the application together with the submitted monitoring data from 2013 to 2019, and the contents of the submitted Groundwater Management Plan, it is considered the proposed development will meet the requirements of the NPPF in preventing the new and existing development from contributing to, being put at unacceptable risk to, or being adversely affected by unacceptable levels of pollution in relation to the water environment.</p>	8.48
Transport	<p>The proposal complies with Policies 16 (Transport) and 18 (Operational criteria for the control of mineral development) of the adopted Hertfordshire Minerals Local Plan</p>	8.57
Landscape and Visual Impact	<p>[no analysis provided in the report]</p>	
Residential Amenity	<p>Subject to the mitigation measures being implemented prior to the extraction and processing of minerals an acceptable noise environment should be maintained. The proposals have demonstrated that no significant noise intrusion will arise from the development. The proposal complies with Policy 18 (Operational criteria for the control of mineral development) of the adopted Hertfordshire Minerals Local Plan.</p> <p>In terms of air quality, the site is not within an air quality management zone and there is no local air quality monitoring data for existing levels of pollutants. The local Environmental Health Unit advised that background air quality monitoring should be undertaken for a sixth month period prior to the commencement of mineral extraction. This scheme forms part of the planning conditions. Monitoring locations have been agreed with the Environmental Health Unit.</p> <p>The traffic generated by the development forms a relatively small proportion of the overall traffic using the A1057. The proposal provides for air quality monitoring. The proposal has demonstrated that it will not give rise to significant degradation to air quality. The proposal complies with Policy 18 (Operational criteria for the control of mineral development) of the adopted Hertfordshire Minerals Local Plan in respect of air quality.</p>	8.67 to 8.69

Topic	Comment	Para Ref.
Cumulative Impact	<p>Subject to the proposed conditions being in place for the application site, the operation of both quarries concurrently should not have any unacceptable cumulative impact on the environment of the area.</p> <p>The proposal has demonstrated that there will not be any significant noise intrusion or significant degradation to air quality. The HGV traffic generated by the development will not have a severe impact on the road network and the Highway Authority accepts that the increase in traffic will be within the daily fluctuation of the road, in accordance with Policy 11 of the adopted Hertfordshire Minerals Local Plan and the NPPF.</p>	8.82 & 8.83
Historic Environment	There will be no mineral extraction within 75m of the boundary with Popefield Farm. These measures will provide an appropriate buffer to screen views and protect the setting of the Popefield Farm.	8.94
Ecological Impact	... the creation of new habitat as part of the restoration of the site is likely to produce long term net biodiversity gains with significant new habitat areas ... which will to compensate the short term biodiversity impact during mineral workings ... The proposed restoration would be consistent with the aims of the NPPF and Minerals Policy 9 with regards to long-term overall enhancement to local biodiversity through restoration.	8.98

2.8 Section 9 of the report then sets out the officers conclusions and 'Planning Balance'. Again, the first 10 paragraphs set out the conclusions on a topic by topic basis clearly indicating that in the officers opinion the Appeal Scheme is compliant with the Development Plan and NPPF. Notably, the officer indicates at paragraph 9.11 that regard has been given to all of the environmental information provided in the Environmental Statement. I agree with his conclusions reached.

2.9 Finally in terms of the planning balance paragraphs 9.12 and 9.13 set out the negative and positive impacts arising from the Appeal Scheme In relation to the negative aspects, the officer identified that there would be minor adverse impacts in relation to visual impact upon the setting of Popefield Farm; noise and air quality; traffic; and cumulative impacts. The officer also considered that there would be a short term significant impact on grassland habitats.

2.10 Turning to the positive effects, the officer identified:

- restoration compatible with use of the land as Park
- permanent extensions to the rights of way network
- long term enhancement to the setting of Popefield Farm
- potential net biodiversity enhancements from restoration
- continued public access to the land during operations via permission paths

- 2.11 It can therefore be seen that with the exception of the short term loss of grassland habitat, all of the identified impacts were considered by the officer to be minor. Referring to the conclusions of the ES, with the exception of grassland, I consider that these conclusions are reasonable. Referring to the ES, and in particular the conclusions to Chapter 11, it concludes that *“the net residual effect of the proposals in terms of key ecological receptors is anticipated to be at worst neutral and at best positive effect measurable at least at the district level of significance.”* I also note that there is no reference to the water environment; however, as the assessment concluded that after mitigation there would be no significant effects on the water environment, then the omission is explained.
- 2.12 In terms of the balance, the officer indicated that
- Great (positive) weight is given to the benefits of mineral extraction;
 - Moderate (positive) weight is given to the benefits of restoration compatible with a Park;
 - Substantial (negative) weight is given to the inappropriate development and impact on openness of the Green Belt;
 - Moderate (negative) weight is given to the minor adverse impacts upon Popefield Farm, habitats, air quality and noise emissions, landscape and visual amenity;
 - Moderate (negative) weight to delay in the provision of the country park for the area of the mineral workings.
- 2.13 Overall, the report concludes:
- “It is considered that the positive benefits of the development, including making the most sustainable use of minerals from the site, clearly outweigh the harm to the Green Belt and other harm. It is considered that very special circumstances exist for the development.”*
- 2.14 I agree with the officer’s conclusion that there are very special circumstances (VSC) which outweigh the harm to the Green Belt and other harms that have been identified. However, I do consider that there are additional factors that constitute VSC to those he has identified, which I set out at paragraphs 5.32 to 5.38 in my evidence.

3.0 Comments on Issues raised by Rule 6 Parties

- 3.1. I recognise that the planning application has generated objections from local residents and other interested parties, and these concerns will be articulated at the inquiry by the Rule 6 parties.
- 3.2. The NPPF recognises that minerals can only be worked where they are found, and by virtue of the nature of mineral extraction operations, there will always be some impact on the environment and amenity. The imperative is not to provide for mineral developments which take place with no impact, but to ensure that the effects are regulated to within ‘appropriate limits’ and that restoration is carried out at the earliest opportunity to high environmental standards. It is therefore not credible to suggest that mineral development can take place with no adverse effects on any interest, and it is not part of the Appellant’s case, or my evidence, to suggest that the development will not cause any environmental or amenity effects.
- 3.3. In this case a site has been identified with proven reserves, and, both the adopted and emerging MLP allocate the site as a preferred area, commenting that the Plan “*seeks to identify the most suitable resources for potential sand and gravel extraction*”. A detailed working and restoration scheme has been designed with both in-built mitigation measures inherent in the design (notably the phased approach to extraction, backfill, restoration and appropriate restoration land uses), with mitigation measures in terms of environmental and amenity controls.
- 3.4. The responses of the technical statutory consultees corroborate the conclusions of the ES’s that the development could proceed in a way which successfully minimises environmental effects. The detailed appraisal undertaken by the Planning Officer in his Committee Report (September 2020 [CD1.7]) accepted that the measures designed to minimise impact were appropriate, and that they could be effectively controlled by planning conditions and a legal agreement. The report also acknowledged that the restoration scheme would deliver “*long term environmental benefits in terms of appropriate restoration of the site including the creation of new woodland and grassland habitats for conservation.*”
- 3.5. The extent to which the Appellants have met the obligation to avoid unacceptable impacts and minimise / control amenity impacts to within appropriate limits can be judged by the responses from statutory consultees and the detailed appraisal of the Planning Officer in his Committee Reports, leading to the recommendation of the Planning Officer that planning permission should be granted.
- 3.6. I set out in **Appendix B** the general issues that have been raised and where they have been addressed.

4.0 Green Belt

Context

- 4.1 The Appeal Site is located in the Greater London (Metropolitan) Green Belt which covers around 500,000 hectares (ha) surrounding London and extending into the Home Counties. Within Hertfordshire the Green Belt extends to around 90,000 hectares².
- 4.2 For the part of the Green Belt within which the Appeal Site is located, Dacorum, St Albans and Welwyn Hatfield Councils commissioned SKM to review the Green Belt, resulting in the Green Belt Review Purposes Assessment report published in 2013 [CD 4.1].
- 4.3 I note that the Appeal Site is located within Parcel GB36. This is an area of some 864 ha located between St Albans and Hatfield, north of the A1057. It forms an extensive flat clay plain, more undulating to the north. The assessment in Appendix 1.2 notes that the parcel contributes significantly towards 3 of the Green Belt Purposes. Turning to the analysis provided for the Green Belt Purposes, in the context of “preventing neighbouring towns from merging” it states (emphasis added)

*“The parcel provides the strategic gap to separate St Albans and Hatfield. The gap is 1.2km. It is large and generally well maintained (relatively free of development), in comparison to GB35. However it is subject to development at Oaklands College and ribbon development at Smallford. There is a strong visual perception of the Green Belt from the Hatfield Road. Any reduction in the gap, assuming it is located away from Smallford, **would be unlikely to further compromise the separation of settlements in physical or visual terms, or overall levels of visual openness.**”*

- 4.4 Turning to the purpose “To assist in safeguarding the countryside from encroachment” the Assessment states:

The parcel displays typical rural and countryside characteristics in largescale arable fields with hedgerow boundaries and hedgerow trees and is interspersed by woodland blocks with areas of ancient woodland to the north. There is a parkland landscape at Oaklands College with substantial areas of playing fields. There is evidence of urban features, especially at the former Hatfield aerodrome which is partially redeveloped with a new business park including visually dominant buildings. To the west there is a mix of urban fringe development as Oaklands College has recently been subject to expansion, representing further development in the Green Belt. The west part of the parcel, which contains development in the Green Belt, is enclosed by the St Albans settlement boundary on three edges. It therefore exhibits strongest levels of urban influence and represents a more enclosed area of land especially along Sandpit Lane and House Lane. Therefore levels of visual openness vary throughout the parcel but are high in general.

² Green Belt Review Purposes Assessment (Nov. 2013, SKM)

- 4.5 In relation to preserving the setting of historic towns, the assessment states that the parcel does not contribute.
- 4.6 Finally in relation to the level of openness and countryside character, the assessment notes that the level of built development is 0.7%. It also adds that there is a network of hedges, field trees and tree belts that visually contain the largely arable character. Around the Oaklands and Hatfield aerodrome sites views are more open. Comparing aerial imagery from 2013 to the present date (using Google Earth) shows that there has been further development in the Green Belt, mainly on the edge of St Albans, west of Oaklands College.

Sand and Gravel Deposits and Mineral Sites

- 4.7 As noted in the evidence of Mr Simon Treacy, the occurrence of sand and gravel deposits in Hertfordshire lie within the Green Belt meaning that **any** future extraction of sand and gravel **will** be from within the Green Belt. Thus, should the Appeal Site not be developed, it will be necessary to find further reserves to facilitate a steady and adequate supply of aggregates throughout the Plan period (and beyond) and so it is inevitable that these reserves will be sourced from within the Green Belt.
- 4.8 As part of the review of the Minerals Local Plan the Council undertook a detailed review of sites³ [CD4.2]. In total 24 sites were reviewed along with the 3 Preferred Areas (contained in the adopted Minerals Local Plan) in relation to the extraction of sand and gravel. The assessment shows that all of the sites considered are located in the Green Belt.

Relevant Planning Policy

- 4.9 As noted from Section 2, the Planning Statement and Appendix A, along with the Appellant's Statement of Case, provide my analysis of relevant planning policy.
- 4.10 From both the Development Plan and from the NPPF, I consider that Green Belt policy is a key policy for the determination of the appeal. In both saved Policy 1 of the St Albans Local Plan Review and the NPPF, minerals development is cited as appropriate development in the Green Belt. Paragraph 150 of the NPPF qualifies the exception by reference to openness and purposes. I therefore consider that the policy starting point is that minerals development is appropriate development in the Green Belt.
- 4.11 It is however also necessary to consider whether any built development for which permission is sought is inappropriate development.
- 4.12 It is also necessary to consider (because of the terms of paragraph 150 NPPF whether the effects of the proposal on openness and Green Belt purposes are such as to make the whole development inappropriate development.

³ Hertfordshire Minerals Local Plan Site Selection Report, LUC and Cuesta Consulting Ltd. August 2018

- 4.13 If, as result of either or both of these considerations (built development or effects on purposes and/or openness), there is inappropriate development, then consideration must be given to the VSC test in paragraph 148 NPPF.

Council's Reason for Refusal

- 4.14 In noting that only openness is cited in the first reason for refusal, it is presumed that the Council are not claiming that the proposals conflict with the purposes of including land within the Green Belt (i.e. points a to e in paragraph 138 of the NPPF). Notwithstanding this I set out below my analysis of the Appeal Scheme in relation to Green Belt purposes.
- 4.15 Within the Council's reason for refusal it focuses on "*the erection and use of the processing plant, the concrete batching plant, the use of haul roads to transport mineral within the site and the erection and retention of perimeter bunds for the duration of development*". The reason indicates that the concern is in relation to "*openness for the extended duration of the proposed development*". The Council considers that VSC do not exist to overcome this harm, which is contrary to the conclusions of both the January 2017 and September 2020 Committee Reports [CD1.4 and 1.7].

Effect on the Purposes of Green Belt

- 4.16 As noted earlier, mineral development within the Green Belt can be considered to be acceptable (i.e. not inappropriate) where it is consistent with the purposes of the Green Belt and protects openness. In the following paragraphs I consider both the original development (Scheme 1 - with the concrete batching plant) and the amended scheme (Scheme 2 - without the concrete batching plant) in relation to Green Belt purposes.

Sprawl

- 4.17 I consider sprawl is the outward spread of the edge of a (usually large) built up area in a disorganised or irregular manner. A strongly performing parcel of land would be on the settlement edge but would be free from built development and there would be little perception of built development available from publicly accessible viewpoints.
- 4.18 The proposed development is located adjacent to Smallford to the south-west, whilst Ellenbrook lies to the south-east on the far side of the A1057. The boundary with Smallford is limited to the entrance and access road together with the final extraction phase within the Appeal Site, and the existing Notcuts Garden Centre outside. The site entrance from the A1057 is located approximately 120m to the east from Smallford and turns sharply into the site screening views from the A1057. Existing hedgerow planting along the western boundary, coupled with the proposed hedgerow planning on eastern side of the access road would have sufficiently established to screen the mineral extraction in Phase G by the time that phase was initiated (being the last phase of extraction).

- 4.19 A good screen of vegetation is present along the A1057 to the south and this would screen the earliest phase (Phase A) adjacent to the farthest western extent of Ellenbrook. The majority of Ellenbrook is adjacent to the sports pitches of the University of Hertfordshire, and thus further away from the Appeal Site.
- 4.20 In the context of the plant site, this is located away from the edge of both settlements and the inclusion of the concrete batching plant (Scheme 1) makes no difference in terms of brining the plant site closer to the settlements (given it is located centrally within the plant site).
- 4.21 The proposed development would thus not appear as an extension to either settlement. I therefore consider that the potential for the development to be perceived as sprawl from an adjacent settlement is limited.
- 4.22 As noted from **Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council [CD9.4]**:

“Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land.”

Coalescence

- 4.23 I consider coalescence to be the merging of two nearby settlements. A strongly performing parcel of land would be located between two settlements, it would be open and free from built development with no perception of built development available from publicly accessible viewpoints.
- 4.24 For the same reasons as identified above in ‘Sprawl’ the perception of coalescence would be limited, largely due to the vegetation along the A1057. The perceived gap between Ellenbrook and Smallford would therefore remain largely intact, with the access junction into the site having a limited effect on coalescence.

Encroachment

- 4.25 I consider encroachment to be the construction of built development in open countryside. A strongly performing parcel of land would be an entirely open piece of agricultural land, in good condition, free from built development and there would be little perception of built development available from publicly accessible viewpoints.
- 4.26 There would be an element of encroachment caused by the proposed plant site due to its position in open countryside. However, the agricultural land present is not in good condition as illustrated by Viewpoints 1, 6 and 8 in Chapter 8 of the ES and noted in the landscape character study. Other built development is also perceived in the form of the Hertfordshire University, Hatfield tower blocks, housing at Oaklands Lane and the existing CEMEX mineral plant site, fencing and conveyor line. Some effects on openness are caused by the CEMEX plant site, although this is relatively well screened behind mature vegetation and would be approximately 800m away from the main plant of the development

site and to the east. Therefore, separation would be apparent with views and aesthetic links to the agricultural land to the north. Thus the level of perceived encroachment would be limited.

- 4.27 Overall therefore I consider that whilst there would be impacts, the Appeal Scheme does not significantly affect the purposes of the Green Belt. Moreover, the effects are temporary, though long term, and so would be reversible on completion of restoration. The restoration scheme allows for a combination of creating habitats focussed on delivering biodiversity along with the provision of areas for amenity use and public access, including a network of formal and informal paths. These are consistent with Green Belt aims, and in particular paragraph 145.

Effect on Openness

- 4.28 In the Supreme Court ruling of **Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council** (2020), at paragraph 22, openness was explained:

“The concept of “openness” in para 90 of the NPPF seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: “to prevent urban sprawl by keeping land permanently open ...”. Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As PPG2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land.”

- 4.29 Key points are therefore (1) openness being the counterpart of urban sprawl (2) that openness is not necessarily a statement about the visual qualities of the land and (3) it does not imply freedom from any form of development.

- 4.30 The extent to which harm is caused to the openness of the Green Belt, and results in encroachment into the countryside has to be applied to the ‘particular facts of the specific case’. In **Turner v Secretary of State for Communities and Local Government** (2016), Lord Justice Sales stated (paragraphs 14):

*‘The word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. **Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs** (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.*

- 4.31 As Turner pre-dates the Samuel Smith case above, the judgement needs to be read in that context (particularly in relation to visual impacts).
- 4.32 As noted in **Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government** (2013) [CD9.1] *“some level of operational development for mineral extraction, sufficiently significant as operational development to require planning permission has to be appropriate and necessarily in the Green Belt without compromising the two objectives. Were it otherwise, the proviso would always negate the appropriateness of any mineral extraction in the Green Belt and simply make the policy pointless.”* (paragraph 65). *“... as Green Belt policies NPPF 89 and 90 demonstrate, considerations of appropriateness, preservation of openness and conflict with Green Belt purposes are not exclusively dependent on the size of building or structures but include their purpose”.* (paragraph 66).
- 4.33 Accordingly, there is an acceptance that some ancillary development can be acceptable within the Green Belt and so the starting point is not that all ancillary development is inappropriate. The level of infrastructure has to be proportionate to the nature of the mineral deposit, reflecting any operational requirements that may dictate how the site is worked. Otherwise, if an overly restrictive/prescriptive approach is taken, it runs the risk of rendering a site unworkable and thus neutering the effect of paragraph 150 in the NPPF.
- 4.34 The nature of the infrastructure proposed as part of the Appeal Scheme is not excessive for a sand and gravel quarry. Indeed, in considering the effects in the January 2017 Report (paragraphs 10.68 to 10.77) the officer noted the *“inappropriate development forms an essential part of a mineral operation on this scale, and the operation has been planned to minimise and mitigate any potential harm to the Green Belt as far as possible”*. I will come to this point later.
- 4.35 A Landscape and Visual Impact Assessment has been undertaken and reported in Chapter 8 of the ES [CD1.2]. This assessment considered the Appeal Scheme from eight viewpoints surrounding the site. These viewpoints are illustrated on Drawing HQ 8/1 and described in Table 8-4 along with Appendix 8/5.
- 4.36 I have provided my analysis for each viewpoint and how openness may be affected in **Appendix C**. For ease of reference I have also included the Viewpoint Location Plan (Drawing HQ 8/1) in Appendix C.
- 4.37 As can be seen from Appendix C, for a number of viewpoints around the periphery of the Appeal Site the effect on openness is limited due to the presence of existing mature vegetation or development. However, for Viewpoints 2, 6 and 8, which relate to public rights of way, openness is affected, with the greatest impacts being at Viewpoint 6 where openness is affected by a combination of bunding, fencing and advance tree/shrub planting, along with the creation of an access road (and associated movements of HGVs). However, such features are part and parcel of mineral extraction operations and without them could not operate. The height of bunding has been kept to a minimum wherever possible to reduce the sense of enclosure. Moreover, if the viewer moves a short distance into the site from these viewpoints, the views become more open again.

- 4.38 There is also a number of informal permissive paths within the Appeal Site which link into the public rights of way noted above. For the public right of way, this is aligned along the western boundary for much of its length within an ‘enclosed’ corridor provided by existing woodland planting. In view of this, the Appeal Scheme would not have a significant effect on openness for this section of footpath, with occasional glimpsed views, through vegetation, of an acoustic fence. The northern section of the footpath crosses the Appeal Site; this section would be stopped up with the link provided by an existing bridleway and new section of footpath on the periphery of the Appeal Site. Again, views from the bridleway are currently restricted by existing vegetation developing within the Appeal Site and so the effect on openness would be minimal.
- 4.39 For the permissive paths within the Appeal Site, there would be an effect on openness caused by the erection of bunds and the plant site.
- 4.40 It is worth noting that despite descriptions of the Appeal Site being a “flat plain”, visibility across the site is restricted by vegetation and landform (such as low mounds). Indeed, large parts of the Appeal Site are colonising with tree and scrub vegetation, which limit visibility across the Appeal Site in places.
- 4.41 The temporary soil and overburden storage mounds would be long, relatively low and grass seeded, thus avoiding high, steeply rising, engineered pinnacles. They would also be removed as part of final restoration and the infilling of the mineral voids would not result in land raising or additional permanent enclosure as the landform would be low and very gently sloping, in keeping with the existing character.
- 4.42 To the north and south, the bunds are located at the periphery of the Appeal Site and set against the backdrop of mature hedgerows. Given the relatively flat topography, these hedgerows already limit openness, restricting views of land beyond the Appeal Site. In view of this, the bunds would not truncate views from within the site and so I do not consider that they significantly affect openness. The bund along the eastern boundary, adjacent to the recharge lagoons, would truncate views from within the site looking east, with the amount to which views are restricted increasing the closer to the bund the viewer is. Notwithstanding this, distant features on the horizon would still be visible above the bund. This bund would therefore have an effect on openness. However, I do not consider this to be any greater than would be expected for a mineral operation. On the western side, a long and wide 3m high storage mound would be erected during Phase B. In part, this would be hidden by existing vegetation that is establishing within the south-western part of the Appeal Site. This mound would be viewed against the western boundary of the site, and so the effects on openness, in terms of restricting views, would be limited. However, it does introduce a new landform and would bring forward into the site the perceived edge of open land and so would have a temporary effect on openness.
- 4.43 It is noted from the Secretary of State’s (SoS) letter dated 4 April 2019 [CD9.3] in relation to an appeal by RJD Ltd and Gowling WLG Trust Corporation Limited for land at Ware Park, Wadesmill Road, Hertford (APP/M1900/W/17/3178839) that he agreed with the Inspector’s findings on Green Belt in relation to processing plant equipment, access and activity associated with the mineral extraction. In this context both the SoS and Inspector considered that these developments “*would, to some extent, impair the*

openness of the area, but not enough to exceed the threshold or tipping point for the purposes of applying paragraph 146 of the Framework". However, whilst the Inspector considered that peripheral screen bunds would affect the openness of the Green Belt to an extent that they would be considered inappropriate development, the Secretary of State disagreed and indicated that they would not be inappropriate development. I note that the bunds proposed as part of the that scheme ranged in height, with some up to 7m in height.

- 4.44 The location of the long term plant site within the Appeal Site maximises the separation distance between it and the urban edges of Smallford (to the south-west) and Ellenbrook (to the south-east; in so doing the effects on openness are minimised. The plant site would be the main source of effects on openness due to its constructed appearance, size and part urban nature. The built structures relating to the processing plant (and concrete batching plant) would also be relatively narrow structures and isolated built forms, rather than being a broad, solid mass of built development as would typically be associated with effects on openness. The processing plant site when viewed from the south (looking northwards) would be against the backdrop of mature hedgerows. Elements of plant would appear on the skyline, but as noted above, the plant comprises discrete buildings separated by conveyor lines. The inclusion of a concrete batching plant (Scheme 1) would result in additional buildings, extending the width over which the plant is in the view. The plant would therefore affect openness by restricting views, but would be limited due to the effects of existing hedgerows behind. Including the concrete batching plant increases the effect on openness due to the additional buildings, but in the context of the rest of the plant site, the effect is limited. From the east (looking west) the plant site is hidden by Home Covert, whilst in the opposite direction the plant site would be viewed against Home Covert.
- 4.45 The largest element within the plant site (in terms of massing) would be the stockpile of as-dug mineral, and I consider this would have an effect on openness due to its size, which has been shown covering an area of up to 3ha and a height of around 5m⁴. However, in practice the stockpile would be smaller as it would not be necessary to store 12 months' worth of as-dug mineral for processing, and would diminish in size as material is taken from it. The method of working the Appeal Site (in campaigns) does mean that the stock pile would be larger than one where the site is worked all year round. However, the nature of the mineral deposit is such that extraction is governed by ground water levels and so the scale of the stockpile is reflective of the method of working. Given its location, adjacent to Home Covert, the effects on openness are minimised.
- 4.46 Particularly important though, this would not be a permanent feature, being removed after the mineral extraction process ends. Therefore, although some temporary effects on the openness of the Green Belt would occur the proposed development would ensure the long-term openness of the Green Belt as illustrated on the proposed Restoration Plan. In view of this, whilst the stockpile is a large feature, it is an essential part of the development of the Appeal Site to allow the continued processing of aggregates during periods when mineral cannot be extracted.

⁴ I note that the LVIA states a height of 10m but with an area of 3ha, this would provide over 0.5Mt of storage capacity. It is therefore a typographical error.

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- 4.47 The effects caused by the Appeal Scheme would be reduced by the phased nature of working and restoration operations. The permanent retention of existing vegetation around the periphery of the development, and the various phases as long as possible, followed by phased restoration and replanting, would all help to screen urban influences from adjacent areas and within the Appeal Site, thus reducing the overall effects on openness from the extraction process.
- 4.48 I note that the Council has questioned the method of working and suggested that the effects on the Green Belt could be reduced if field conveyors were used. I disagree with this for the reasons set out in the evidence of Mr Gregor Mutch.
- 4.49 The restoration plan provides an opportunity for future outdoor recreation and biodiversity through a phased restoration that begins to deliver these benefits from the early stages of Phase C and D. These early restoration phases, in conjunction with the extensive planting around Popefield Farm, support both the extension of the Welwyn Hatfield Green Corridor (Welwyn Hatfield Green Corridor Strategic Framework Plan) through these early phases, but also contributes to the Woodland Enhancement Creation Zone/Hertfordshire Woodland Arc and Watling Chase Community Forest. This illustrates that despite the long-term nature of the proposed development, it involves a short term, regular creation of restoration supporting and enhancing existing and proposed green infrastructure projects.
- 4.50 Turning to the spatial aspect, the Appeal Scheme amounts to some 87 ha. The plant site occupies around 11 ha within which are water/silt lagoons, office accommodation together with weighbridge, processing plant and mineral stockpiles (raw aggregates and processed aggregates). In addition, there are vehicle manoeuvring and loading areas. Approximately 15 ha of the Appeal Site would be used for soil storage/screen bunds. There would also be a concrete batching plant within the plant site for Scheme 1.
- 4.51 As I have noted above, the plant site area is located within the northern part of the Appeal Site, approximately 0.3km away from the other existing development at Smallford and 0.8km away from Ellenbrook housing development. It is also some 700m away from Hatfield Road and so eliminates the potential to create a ribbon development along that highway corridor. The perimeter bund at the eastern edge of the site is around 0.3km away from Ellenbrook. As I have already stated, the proposed development would not constitute coalescence of Smallford and Hatfield with open land (either unworked or restored) always present between the two settlements. In addition, the sports pitches of the University of Hertfordshire, in combination with the open green space between the proposed development and the Hatfield OPA site ensure separation of land use and openness particularly when seen within the various proposed green infrastructure plans.
- 4.52 A proportion of the plant site is at ground level and does not comprise built development; for example lagoons and manoeuvring areas. The manoeuvring areas would also not be surfaced (concrete or asphalt) and so reduce the urbanising effect.
- 4.53 In terms of built development, for both schemes there is the processing plant, which comprises three buildings (primary screen, washing/screening and crusher), a sand tower, offices and weighbridge. The
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buildings within the plant site would amount to around 900m² in plan (including conveyors), so around 0.09 ha. To the north and south of the processing plant would be aggregate stock piles, whilst to the east, adjacent to Holme Covert, would be a large stockpile of as-dug mineral (covering an area of up to 3ha and up to 5m in height). Scheme 1 also includes a concrete batching plant. Based on the example that was given in the 2016 planning application (in Appendix 3/1) the plant buildings (including silos) would have a footprint of around 200m². The aggregate storage bays add a further 440 m², however these are low walled enclosures within which aggregates are stored and so similar to the aggregate stockpiles around the plant. The addition of the concrete batching plant would increase the footprint of the buildings to 1100m² (0.11 ha).

- 4.54 The main elements of the processing plant would be around 10m in height, with the sand tower being 14m, which I do not consider to be excessive. In this respect I note that under Part A to Class 17 of the Town and Country Planning (General Permitted Development) Order 1995 plant and machinery connected with the winning and working of minerals may be erected without prior approval provided it is less than 15m in height. The concrete batching plant would be of a similar scale for the main part of the plant (namely the mixing tower), but be around 14m to the top of the silos.
- 4.55 Finally, in terms of the duration, the operations would last around 32 years, which under the GLVIA3 guidance is classed as long term. However, the proposals are still temporary and are reversible in that the Appeal Site would be restored. Such restoration works are proposed to be phased following behind the phasing of extraction. This limits the amount of land within the Green Belt directly affected at any one time. As noted in the evidence of MR Gregor Mutch, retaining public access to the Appeal Site has been a key consideration in the design process. The Appeal Scheme seeks to maximise the area that is available to the public, having regard to health and safety considerations.

Conclusions

- 4.56 The first question I have to answer is whether the Appeal Scheme is appropriate or inappropriate development in the Green Belt. If the scheme is considered to be appropriate, then the consideration rests on whether the proposal is in accordance with the Development Plan. Conversely, if it is inappropriate then VSC must be shown.
- 4.57 The stating point, based on NPPF paragraph 150 (a) and **Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government** (2013) is that mineral development is appropriate in the Green Belt and that a certain degree of ancillary infrastructure (built development) is acceptable (otherwise the policy in the NPPF is neutered). The question is whether the scale of the ancillary infrastructure is excessive for the operation to the point that it significantly affects openness. There is therefore a threshold, below which the infrastructure can be considered appropriate and above which it is not.
- 4.58 In relation to the two schemes, there are common areas, for example bunding, transport of excavated and processed minerals and the aggregate processing plant. As such, it seems sensible to start with Scheme 2. If I find Scheme 2 to be inappropriate development, then the addition of the concrete batching plant in Scheme 1 would also be inappropriate.

- 4.59 As noted in the evidence of Mr Simon Treacy and based on my own experience, to be able to provide saleable aggregates, mineral extraction **needs** ancillary development to process (crush, wash and screen) the excavated sand and gravel. It is common practice for such plants to be located adjacent to the mineral workings, as is evident at the other sites in Hertfordshire. Locating the plant adjacent to the workings minimises haulage; transporting as-dug sand and gravel to an off-site processing plant increases the number of HGV movements associated with the operation (which in turn increases carbon emissions and any environmental effects associated with transportation). Similarly the washing process produces silt which needs to be disposed of; settling lagoons are thus required increasing the amount of land required, or resulting in further HGV movements to transport the dried silt for disposal. The processing plant has been sited away from urban areas to minimise effects, both in terms of amenity and ameliorating the effects on the Green Belt. I consider that the plant site introduces an urbanising effect and does diminish openness. However, its location minimises the reduction in openness. In most cases, the plant is viewed against the backdrop of mature hedgerows. The scale of the plant is reasonable and includes items that are normally found within other sites. Processing plant is an essential part of mineral operations, allowing for the range of aggregates that society needs.
- 4.60 To facilitate extraction, defined haul roads are required to allow the as-dug mineral to be transported from the face to the plant site. Whilst the council has indicated that the use of conveyors would be more appropriate, I agree with the evidence of Mr Gregor Mutch that for the Appeal Site, conveyors would not be a practical solution.
- 4.61 Perimeter bunds help mitigate the environmental effects, as well as providing for the storage of soil resources stripped from the working area. Again, these aspects were considered in the January 2017 and September 2020 Reports and found not to result in unacceptable impact on the Green Belt. In relation to soils handling, minimising the number of times soils are handled helps preserve its structure, which is beneficial for restoration. These aspects are all common to the development of sand and gravel quarries and will be no different to other quarries in Hertfordshire.
- 4.62 Whilst there are large lengths of bunding, most are located at the periphery against mature hedgerows. The height of the bunding follows best practice (which suggests up to 3m for topsoil and 5m for subsoil⁵). The amount of bunding is a function of the amount of material that is to be stored for restoration; by phasing the operations, overburden and interburden can be directly placed following the initial phase, which reduces the amount to be placed into bunds.
- 4.63 The access road, which is located close to receptors on public rights of way, also has an effect on openness with the movement of HGV's and creating an urbanising feature. However, an access road is an essential feature of mineral developments. The access point has been located so as to minimise harm to the highway network, or residential amenity. I do not consider that the access point substantially reduces openness.

⁵ Good Practice Guide for Handling Soils in Minerals Workings. Sheet G. Institute of Quarrying (2021)

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- 4.64 Based on my analysis I consider that all of the above ancillary development is necessary to facilitate the extraction of sand and gravel from the Appeal Site. I also consider that the ancillary development is reasonable, normal and appropriate for the minerals operation. I therefore consider Scheme 2 to be appropriate in the Green Belt and as such, VSC to not need to be demonstrated.
- 4.65 Turning to Scheme 1, as noted this introduces a concrete batching plant to the plant site. It is located centrally, immediate to the west of the aggregate processing plant. The inclusion of the additional buildings and infrastructure associated with the concrete batching plant would diminish the level of openness, which would be greatest when viewed from the south within the Appeal Site (on the permissive paths). However, it would be viewed in the context of the aggregate processing plant and the concrete batching plant represents a very small element of the overall plant site (around 3%), increasing the footprint of buildings by around 22%. I therefore do not consider that the addition of the concrete batching plant significantly diminishes openness when viewed in the context of the overall plant site.
- 4.66 Accordingly, I consider that Scheme 1 is also appropriate in the Green Belt and as such, VSC to not need to be demonstrated
- 4.67 Finally, it is important to note that the effects are not permanent and so the proposals do not affect the ‘permanence’ of the Green Belt.

5.0 Planning Balance

5.1 In this Section I set out my consideration of the planning balance. In so doing, I pose the following questions:

1. Does the Appeal Scheme accord with the adopted Development Plan?
2. Does the Appeal Scheme accord with the emerging Minerals Local Plan?
3. What is the weight that can be afforded to the policies in the emerging Minerals Plan?
4. If the development is considered to be in appropriate development in the Green Belt, are there any Very Special Circumstances?

5.2 I then conclude this section by setting out what I consider to be the planning balance.

Compliance with the adopted Development Plan

5.3 As I have noted in Section 2 above, detailed consideration has been given to the relevant planning policies in both the Planning Statement and the officers reports to committee.

City and District of St Albans District Local Plan Review

5.4 **Policy 1** in the St Albans Local Plan addresses development in the Metropolitan Green Belt. It clearly indicates that planning permission for mineral extraction will be granted in the Green Belt. Unlike paragraph 150 of the NPPF, the policy is not qualified by reference to openness or purposes. It goes on to add that *“new development in the Green Belt shall integrate with the existing landscape. Siting, design and external appearance are particularly important and additional landscaping will normally be required”*.

5.5 As previously noted, a landscape and visual impact assessment has been undertaken. This concluded that there are no significant landscape or visual effects. It then added that the overall landscape effects upon the “Area 31 De Havilland Plain” as a whole are considered to be slight. Moreover, no objection has been raised on landscape grounds and it has been agreed with the council that there are no landscape or visual impact issues which would justify a refusal of the proposed development. Accordingly, this policy is complied with.

Adopted Minerals Local Plan

5.6 I consider the starting point to be **Policy 3** and the identification of Preferred Area 1 in the Plan as a site specifically allocated to supply sand and gravel. The Appeal Site comprises the southern part of the allocated area. The policy indicates that proposals **will be permitted** where:

a) they contribute to maintaining the County’s appropriate contribution to local, regional and national aggregate needs, including the maintenance of a landbank in accordance with Mineral Policy 1; and

b) the application satisfactorily fulfils the requirements of the Proposals for that Preferred Area as identified with the Inset Maps.

- 5.7 As set out in the Planning Statement, and updated in **Appendix D** to my evidence there is a clear and urgent need for the release of sand and gravel reserves within Hertfordshire. This is not contested by the Council (as noted in the SoCG). Indeed, the officers report clearly indicates that the Appeal Scheme is compliant with the policies regarding landbanks and the supply of aggregates (see paragraphs 8.2 to 8.9 in **CD1.7**).
- 5.8 Turning to the second part of the policy, the text supporting the inset map sets out the following:
- Integrating Ellenbrook Linear Park into the restoration proposals;
 - If the proposals excludes area of the allocation this needs to be justified to avoid unnecessary sterilisation;
 - Appropriate buffer zones;
 - A landscaped buffer zone incorporating Ellenbrook Linear Park shall be provided to the eastern part of the site
 - Potential for restoration to include extensive new woodland combined with suitable amenity use;
 - Ensure that Home Covert is not adversely affected;
 - Proposals should include provision for archaeological investigations.
- 5.9 The supporting text then sets out a number of points raised by the Environment Agency:
- Buffer strips to watercourses
 - Temporary diversion of the Nast
 - Bromate contamination
 - Groundwater protection zones (requiring only inert wastes for infill)
- 5.10 These aspects are all addressed in the Appeal Scheme. This is also acknowledged in the officers report (see Table 2-1 above).
- 5.11 Other relevant policies include **Policy 11** (cumulative impacts). An operational sand and gravel quarry Hatfield Quarry (CEMEX) lies to the north of the application site, with land adjoining the application site having been worked. The cumulative impacts associated with developing the application site have been considered as part of the EIA process and no significant effects have been identified, either individually (for one facet of the environment) or collectively. Referring to the September 2020 Report to the Development Control Committee clear consideration was given by the planning officer to the potential

cumulative effects of traffic (paragraphs 8.73 to 8.76) and Hatfield Quarry (8.77 to 8.83). The officers own analysis concluded that there should not be any unacceptable cumulative impact on the environment of the area. Moreover, paragraph 9.10 notes “... the operation of the new quarry in parallel with the continued operation of Hatfield Quarry would not have significant adverse cumulative impact on the local area”. Consequently, the officer advised committee members that the proposals accorded with Policy 11. Based on the findings of the ES, I agree with this conclusion.

5.12 **Policy 13** indicates that the Council will not allow land worked for minerals to become derelict or remain out of beneficial use. Applications for mineral extraction are to be accompanied by a detailed and comprehensive restoration scheme. This also touches on the provisions of **Policy 14**, which requires restoration schemes to have a sustainable after-use. I consider that the submitted phased working and restoration scheme addresses these policies.

5.13 Linked to the restoration of mineral workings, including the application site, is the use of inert materials to infill the void left once the mineral has been removed. Paragraph 4.5.1 indicates:

“... The level of restoration needs to be addressed on a site-specific basis as restoration to a lower level than the original may be more appropriate than restoration to pre-extraction/original levels. The landscape character assessment and the provisions of Policy 18 (ii) (form of restoration) will be considered when determining the appropriate levels for any restoration.”

5.14 The supporting text recognises that infilling mineral workings as part of a restoration scheme is not without its problems, potentially increasing the area of disturbance at any one time or duration of operations. It also refers to potential environmental issues; however, these are mainly in relation to infilling with non-hazardous wastes, as opposed to inert materials. **Policy 15** indicates that “The reclamation of mineral workings with waste will only be permitted where it can be demonstrated that the disposal of waste is necessary to achieve the restoration proposals”. The policy goes on to add that timescales to achieve the restoration should be appropriate and that there is “a sufficient total quantity of fill likely to be available to ensure restoration at the required rate”.

5.15 Finally, **Policy 18** sets out fifteen criteria that are to be taken into account to control mineral workings, and in particular, the potential impacts on the environment or local communities. In many respects it provides an overarching policy re-iterating the requirements of other policies in the MLP. Considerations include *inter alia*:

- provision of comprehensive scheme of working and restoration covering all stages of the development;
- restoration landform and long term management to provide that the final landform has the appearance of being created naturally and set harmoniously within its surroundings;
- measures to minimise visual intrusion;
- proximity to retained trees, hedgerows;
- stability of slopes, particularly adjacent to public highways;

- buffer zones in order to safeguard sensitive land-uses;
- noise intrusion;
- air quality;
- public rights of way; and
- cleanliness of public highways.

5.16 I consider that these aspects have been taken into account in designing the working scheme and restoration proposals. Moreover, through the EIA process, as reported in the ES environmental considerations have been taken into account and no significant environmental impact would occur. Again, referring to the September 2020 committee report, the planning officer found no conflict with any part of this policy. These requirements in Policy 18 are therefore fully discharged via the mitigation measures enshrined within the proposed development scheme or can be controlled through suitably worded planning conditions.

5.17 The MLP also contains policies aimed at protecting Hertfordshire's environment and the amenity of its communities and residents. Consideration of these policy matters are clearly set out in the Planning Statement and **Appendix A**, which draws from the conclusions of the ES for each environmental topic. For each environmental topic, it has been clearly demonstrated that no significant effect has been identified and it has been concluded that any harm identified would be within acceptable limits envisaged by the policies. This is reflected in the officers report to committee (as set out in Section 2 above) Accordingly, the Appeal Scheme accords with the environmental policies listed above.

5.18 Overall therefore, I consider that the Appeal Scheme is in compliance with the adopted Mineral Local Plan.

Compliance with the emerging Minerals Local Plan

5.19 Like the adopted Plan, I consider the starting point to be **Policy 4** as it relates to the future provision of sand and gravel during the plan period. The policy opens by stating that "*Provision for Hertfordshire's apportionment contribution will be met by the identification of Specific Sites and Preferred Areas*". In relation to specific sites, Hatfield Aerodrome (the Appeal Site) is listed as 'Specific Site 1'. The supporting text at para 8.14 notes that the MPA "*has undertaken an extensive site selection study in order to identify the most sustainable locations for future aggregate extraction*". Paragraph 8.18 adds "*It is therefore intended that, unless exceptional circumstances indicate otherwise, the county's needs for land-won aggregate will be met from the sites and area identified in Policy 4: Working of Specific Sites or Preferred Areas of this Plan. Planning applications for mineral extraction at unallocated sites would not be supported unless a significant case for mineral demand could be demonstrated with particular reference to Policy 3: Aggregate Supply*".

- 5.20 From the 'Site Profile' in Appendix 3 in the eMLP I note that the reserve, annual output and duration are consistent with the Appeal Scheme. It also indicates that the Appeal Site will come on line early in the Plan period.
- 5.21 The Site Profile also comments on environmental considerations noting:
- Restoration and aftercare of the site should be consistent with any existing legal agreement and the Hatfield Aerodrome Supplementary Planning Guidance;
 - Proposals will require an extensive plan of groundwater level and quality monitoring before, during and after the working to protect the water supply. The Bromate plume will need to be assessed and shown that it will not be spread either vertically or laterally as a result of proposed works. This is of particular importance for proposals which extend below the water table or into the lower mineral horizon; and
 - Developments associated with the mineral extraction should be designed and positioned appropriately to prevent conflict with the purposes of the Green Belt.
- 5.22 Chapter 12 of the eMLP addresses the Green Belt, including draft Policy 12, which I have addressed in Section 3 of my evidence. Notably, it reflects the NPPF, but is positive in its language.
- 5.23 Finally, draft **Policy 13** addresses Cumulative Impact indicating that providing a positive approach where cumulative impact would not result in unacceptable adverse impacts on the environment of an area or on the amenity or health of a local community. The policy indicates that this can be "*either in relation to the collective effects of different impacts of an individual proposal or in relation to the effects of a number of developments occurring either concurrently or successively*". As I have set out in relation to Policy 11 in the adopted plan, cumulative effects have been fully considered.
- 5.24 Overall therefore, I consider that the Appeal Scheme is in compliance with the emerging Mineral Local Plan.

Weight to be attached to the emerging Plan

- 5.25 The emerging plan is currently at the Reg. 19 stage, where the latest consultation closed in March 2019. The first consultations commenced in 2015. Referring to the council's website:

We are working to summarise all the representations received on the Proposed Submission Minerals Local Plan. When all the representations have been summarised, we will produce a statement of main issues raised document which will be made available on the council web pages.

We will submit all representations received relating to the Minerals Local Plan along with the Plan itself to the Secretary of State for independent examination, known as an Examination in Public.

- 5.26 The Plan has therefore undergone several stages of consultation and is at advanced stage of drafting. However, it has not undergone formal examination.
- 5.27 It is also worth noting the supporting assessments that have been undertaken to support the emerging Plan. In particular, and as noted above at paragraph 5.19, considerable effort has gone into considering alternative sites for mineral extraction. Referring to the “*Hertfordshire Minerals Local Plan Site Selection Report*” [CD4.2]. As noted above, the assessment shows that all of the sites considered are located in the Green Belt. The Appeal Site is referred to in the report as Site MLPCS0006; in addition, consideration was also given in the report to ‘*Preferred Area 1*’ included in the adopted Plan (which includes the Appeal Site).
- 5.28 Considerable work has therefore gone into considering suitable sites to meet future supplies of sand and gravel. Based on the Site Selection Report, the Appeal Site has been included within the emerging MLP.
- 5.29 The NPPF (paragraph 48 indicates that:
- Local planning authorities may give weight to relevant policies in emerging plans according to:*
- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- (c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*
- 5.30 As I note, the eMLP has undergone several stages of consultation over the last 5 years and being at the Reg. 19 stage, is reasonably advanced with the last consultation being on “soundness”. However, the lack of examination diminishes its weight. It is not possible to establish the degree of unresolved objections. I consider that the eMLP is consistent with the NPPF.
- 5.31 Overall, I consider that moderate weight can be afforded to the Plan.

Very Special Circumstances

- 5.32 Whilst it is my view that the ancillary infrastructure would not affect the openness of the Green Belt, if it is found that the ancillary infrastructure is inappropriate development in the Green Belt, then VSC need to be demonstrated to overcome the ‘great weight’ attached to protecting Green Belts.
- 5.33 It is noted that VSC also need to outweigh any ‘other harms’ that the proposal may cause. As has been demonstrated through the Environmental Statement and noted in the three Committee Reports, other harms, after mitigation, or through regulatory control imposed by planning conditions, are minor (not significant) and would not run contrary to the Development Plan policies. As such I conclude that the Appeal Scheme does not give rise to ‘any other harm’ (NPPF, 148).

5.34 It is clear to me that there are substantial benefits to the scheme that can be considered to be VSC.

- 1 The NPPF at paragraph 211 indicates that **great weight** is to be afforded to mineral extraction, noting the contribution that the minerals sector makes to the UK economy. Paragraph 209 states that *“It is **essential** that there is a **sufficient** supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs”*. This is of significant note given how the NPPF describes sustainable development in paragraph 8 whereby the economic objective is to help *“build a strong, responsive and competitive economy”* and a social objective seeking to *“support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations”*. Without an adequate supply of minerals, the *“homes”* (as referred to under paragraph 8 of the NPPF under sustainable development) cannot be built.
- 2 The NPPF at paragraph 213 indicates that *“minerals planning authorities should plan for a steady and adequate supply of aggregates”*. A key tool for doing this is the maintenance of landbanks, which for sand and gravel is 7 years. As has been clearly set out in Section 5 of the Planning Statement, there is a **demonstrable and urgent** need for the release of new mineral reserves in Hertfordshire to ensure that there is a *“steady and adequate supply of aggregates”* and *“maintenance of the landbank”*. Whilst there are several ways of looking at landbanks (mainly depending on the number of years data is averaged over) the landbank is below 7 years, or at the very best, just over 7 years. As noted in paragraph 084 (Reference ID: 27-084-20140306) of the Planning Practice Guidance, *“There is no maximum landbank level and each application for minerals extraction must be considered on its own merits regardless of the length of the landbank. However, where a landbank is below the minimum level this may be seen as a **strong indicator of urgent need**”*.
- 3 Both the adopted and emerging Minerals Local Plan include the Appeal Site as a site specific allocation. Both Plans indicate that the Site Specific Allocations represent the **most suitable locations** for mineral extraction, a statement that is justified by a comprehensive review of the sites put forward by landowners and the minerals industry. As noted in the Site Selection Report the location of the Appeal Site in the Green Belt was noted and found to be acceptable. In view of this, the Appeal Site forms a key element to the strategy in the adopted and emerging Plans in the context of securing *a steady and adequate supply of aggregates*. Without the release of reserves at the Appeal Site there will be a significant shortfall within the emerging plan.
- 4 The NPPF indicates that *“minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.”* As I have set out above, and as noted in the evidence of Mr Simon Treacy, the location of sand and gravel deposits in Hertfordshire are within the Green Belt. This means that any new sites coming forward for mineral extraction **will be within the Green Belt**. Therefore it is inevitable to meet the objectives of the Development Plan that mineral extraction in the Green Belt will be required. The Council has undertaken an extensive review of sites as part of the emerging MLP process and all of the sites assessed for sand and gravel extraction are located in the Green Belt. Given that there is a proven mineral reserve at the Appeal Site, and given the environmental effects have been fully

assessed and found not to be significant, then in line with the NPPF it is important that “best use is made” of the reserve.

- 5 Whilst the impacts to the Green Belt would be over the long term, the impacts are still temporary and reversible and so are not permanent. In this respect I note that planning permissions for windfarms are typically granted for 25 years and considered temporary. The site would be progressively restored on a phased basis, following behind the mineral extraction. On completion of mineral extraction the final phase would be restored, along with the plant site, returning the Appeal site to a condition similar to that existing now. The Appeal scheme seeks to minimise the amount of land taken out of the Green Belt at any one time. Moreover, working the site in campaigns means that the effects associated with extraction (such as the movement of dump trucks) would occur for around 20 weeks per year (around 100 days). As such there would be substantial periods with no mineral extraction or transfer operations within the Appeal Site (noting that restoration operations would continue throughout the year).
- 6 The site would be restored to high standards. The restoration scheme is the culmination of discussions with relevant stakeholders at Hertfordshire County Council and the two District Councils. The scheme seeks to deliver both public access and biodiversity enhancements. On completion of restoration works the site would provide a permanent green space for the local communities, and enhance the strategic gap between Hatfield and St Albans. However, it is also important to note the phased manner in which the Appeal site will be restored, with the view to minimising the amount of land taken out of public access.
- 7 The limited impact on openness. The Appeal Site is well screened from views into it from adjoining land through a combination of mature vegetation and development. This helps reduce the effects on openness perceived from outside. At the same time, within the site vegetation is establishing, which coupled with the existence of low mounds, limit views across the site;
- 8 In the event that a concrete batching plant is developed, there are benefits of co-locating ancillary development with mineral extraction. Co-location of a concrete batching plant can reduce vehicle movements as it removes the HGV movements associated with importing aggregates. These points are recognised in paragraph 10.73 of the January 2017 Report and paragraph 8.37 of the September 2020 Report.

5.35 Based on the above, even if the Appeal Scheme is found to be inappropriate development in the Green Belt, there are significant factors that weigh in favour of the scheme which I considered to be VSC.

5.36 It is noted from paragraph 11.9 in the January 2017 Committee Report [CD1.4] that the *“harm to the openness of the Green Belt is reduced as far as possible by mitigation and would be fully reinstated upon restoration of the site. The benefits of mineral extraction in supporting economic growth are considered to clearly outweigh the limited harm to the Green Belt, including to the landscape, visual amenity, and setting of listed buildings, which constitute the very special circumstances which justify the granting of planning permission for mineral extraction”*. Again, this clearly contradicts with Reason 1. In the September 2020 Report paragraph 9.4 states:

“In terms of the Green Belt, mineral extraction is not inappropriate development and very special circumstances are not required, however, the related bunds, processing plant and concrete plant are

inappropriate development and would not preserve openness, therefore very special circumstances are required for these parts of the development. Mineral working is a temporary activity. The related bunds, processing and concrete plants will be removed on completion and openness restored in the longer term. The process of washing and using minerals on site for secondary use would avoid unnecessary transport and contribute to the sustainable use of minerals.”

5.37 On the negative side of the balance would be the effect on openness, which under the NPPF is afforded “great weight”. In terms of other harms, these are limited and are considered to be within acceptable limits, noting that some degree of impact from mineral development is inevitable (and indeed accepted in policy – see NPPF paragraph 211). I therefore give slight weight to the other harms. Turning to the positive side of the balance, there is “great weight” to be attached to mineral developments. I also attach substantial weight to the need to release new reserves to maintain the landbank throughout the plan period. The fact that the site is allocated in both the adopted and emerging MLPs, and taking into account the scrutiny that would have ensued, I give significant weight to. I also give substantial weight to the fact that all resources of sand and gravel are located in the Green Belt. Turning to the restoration scheme there is an expectation to restore to high standards, but the scheme has sought to offer biodiversity benefits and enhanced access, the latter would be phased in line with the workings. I therefore afford this moderate weight. For the other two points I identified, I afford these slight weight.

5.38 Overall, I conclude that VSC can be shown which would clearly justify the development in the Green Belt.

Planning Balance and Conclusions

5.39 From the paragraphs above I have concluded that the appeal proposals are consistent with the policies of the adopted and emerging Development Plan. Firstly, they accord with the location requirements set out in the Minerals Local Plan, being a Preferred Area in the adopted Plan and a Specific Site in the emerging Plan. It is clear to me that there is an expectation in the Plan for the Appeal Site to play a significant part in the future supplies of sand and gravel within Hertfordshire.

5.40 It has been agreed with the Council that the Appeal Scheme would not give rise to any significant effects to Ecology, Heritage and landscape and visual impact. This is corroborated by the findings of the ES.

5.41 Based on the findings of the ES, coupled with the evidence of Mr Gordon Allison and Miss Michell Dawson, there are no significant effects arising through the movement of HGVs associated with the development.

5.42 Similarly, based on the findings of the ES, coupled with the evidence of Mr Gordon Alison and Miss Michell Dawson, there are no significant effects on the amenity of local residents as a result of dust or noise emissions.

5.43 Finally, based on the findings of the ES, coupled with the evidence of Mr Peter Rowland, there are no significant effects on the water environment, particularly in relation to the bromate plume.

- 5.44 Overall therefore, whilst the proposals would result in some harm, I consider the harm to be minor and so acceptable and within “*appropriate limits*”. Accordingly, policies in the Development Plan aimed at protecting the environment are complied with.
- 5.45 With this in mind, the Appeal Scheme benefits from the presumption in favour of sustainable development, whereby paragraph 11 of the NPPF indicates that development proposals that accord with an up-to-date development plan should be approved without delay.
- 5.46 Finally, there are other factors weighing in favour of the Appeal Scheme; these are the same eight points I have identified above in my consideration of VSC.
- 5.47 I consider that each of these factors add significant weight in favour of the Appeal Scheme.
- 5.48 Accordingly, it is my conclusion that the planning balance weighs heavily in favour of the Appeal Scheme.
- 5.49 In summary therefore Based on the evidence that I have presented, I conclude the following:
1. In relation to Green Belt the Appeal Scheme would have limited impact upon openness and can be considered to be appropriate development in line with paragraph 150 of the NPPF.
 2. Great weight is to be given to mineral development.
 3. there is an urgent need for the release of mineral reserves in Hertfordshire which the Appeal Scheme would provide.
 4. The Appeal Scheme is in accordance with the strategy of the MLP and is compliant with policies in the Development Plan.
 5. Minerals can only be worked where they occur and within Hertfordshire and elsewhere around London, this will be within the Green Belt.
 6. Whilst the impacts to the Green Belt would be over the long term, the impacts are still temporary and reversible and so are not permanent, with a high quality restoration scheme coming forward during the development with associated public assess.
 7. Like the planning officer, I consider the positive aspects of the scheme from the point of view of public amenity to be:
 - restoration compatible with use of the land as Park
 - permanent extensions to the rights of way network
 - long term enhancement to the setting of Popefield Farm
 - potential net biodiversity enhancements from restoration
 - continued public access to the land during operations via permissive paths

8. Even if the Appeal Scheme were found to be inappropriate, significant VSC exist which would clearly outweigh the harm to the Green Belt.

5.50 On this basis, I respectfully invite the Inspector to allow the appeal.

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