

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. 5/0394-1

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

Statement of Case on behalf of Appellant

Prepared for: Brett Aggregates Limited

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1.0 Introduction

1.1 This Statement of Case is submitted in support of an Appeal against the decision of Hertfordshire County Council ('the Council') to refuse planning permission for the establishment of a new sand and gravel quarry on land at the former Hatfield Aerodrome, Hatfield, Herts ('the Appeal Site').

1.2 A full planning application (reference 5/0394-16) was submitted by SLR Consulting Ltd ('SLR') on 22nd January 2016 (validated 26th January 2016) on behalf of Brett Aggregates Limited (the 'Appellant') 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 material for the restoration of the mineral workings"

1.3 This description was amended slightly by the Council as follows (changes underlined for ease):

"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 materialsls for the restoration of the mineralsls workingg"

1.4 At its meeting on 24th September 2020 members at the Development Control Committee resolved to refuse planning permission against officer's recommendation for approval. The Decision Notice was subsequently issued on 6th January 2021 and can be seen within **Appendix A** (document reference 'A.1'). From the Decision Notice it can be seen that four reasons are put forward for refusing the planning permission:

- *The proposed mineral working would be inappropriate development within the Green Belt, specifically related to 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 proposal would result in harm to the Green Belt, in particular openness, for the extended duration of the proposed development. Very special circumstances do not exist for the development to outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm. The proposal does not provide for adequate protection of the Green Belt and would be contrary to the provisions of the National Planning Policy Framework (Paragraphs 133, 134, 143, 144, 146).*
- *The proposed rate and timing of the mineral working and restoration, lasting up to 32 years, would not provide for reclamation of the mineral working within a reasonable timescale. The proposed mineral working would thereby be contrary to Minerals Policy 13 (Reclamation Scheme) and Minerals Policy 2 (Need for Mineral Working) and Minerals Policy 18 (Operation Criteria for the Control of Mineral Development) of the Hertfordshire Minerals Local Plan Review 2002-2016 Adopted March 2017.*
- *The proposed mineral working would have unacceptable impacts on the local environment related to the additional HGV traffic using the A1057, generating emissions to air (noise and dust),*

including the transport of minerals within the site and the use of local roads for the transport of minerals and inert fill. The proposal would result in unacceptable impacts on the local environment contrary to the provisions of Minerals Policy 16 (Transport) and Minerals Policy 18 (Operation Criteria for the Control of Mineral Development) of the Hertfordshire Minerals Local Plan Review 2002-2016 (Adopted March 2017) and Policies R18 (Air Quality) and R19 (Noise and Vibration Pollution) of the Welwyn Hatfield District Plan (Adopted 2005). The impacts of concurrent mineral workings would adversely affect the local environment, contrary to Minerals Policy 11 (Cumulative Impact) of the Hertfordshire Minerals Local Plan Review 2002-2016, Adopted March 2017.

- The lower aquifer to the north of the application site is contaminated by Bromate. The application proposes the extraction of sand and gravels from within the lower aquifer in close proximity to groundwater contaminated by Bromate. There is a high level of local concern that extracting mineral from within the lower aquifer could; extend the bromate contamination within the mineral workings; reduce the effectiveness of the measures in place to remediate the Bromate contamination; and potentially lead to contamination of boreholes used for the public drinking water supply at Essendon. It has not been demonstrated to the satisfaction of the Mineral Planning Authority that the risks to the water environment from the mineral working are acceptable; and, that all routes to possible contamination have been appropriately investigated; and, that all necessary mitigation against all risks has been included in the proposal; and, that the proposed mitigation will be effective. The proposal would thereby be contrary to the provisions of the Hertfordshire Minerals Local Plan (Policy 17(iv)) which does not permit mineral development resulting in negative quantitative and/or qualitative impact on the water environment, and to the provisions of the NPPF (Paragraph 170) for conserving and enhancing the natural environment, and to Policy R7 (Protection of Ground and Surface Water) of the Welwyn Hatfield District Plan (adopted 2005).*

1.5 This Statement of Case (hereafter referred to as ‘the Statement’) is submitted in support of an Appeal against the planning application decision made by the Council. This Statement sets out the Appellant’s case that the proposal will not (contrary to the opinion of the Council) conflict with the Development Plan, indeed that it draws support from the local plan, the NPPF and other important material considerations. In preparing this Statement regard has been given to PINS Guidance¹. Given the nature of the issues in this appeal it is considered likely that the appeal will proceed by way of a public inquiry so that proofs of expert evidence will be produced in due course. This Statement of Case is written on this basis.

Structure of the Statement

1.6 This Statement is structured as follows:

- Section 1 - Introduction
- Section 2 - Background

¹ Procedural Guide. Planning appeals – England. Planning Inspectorate March 2021

- Section 3 - Planning Policy
- Section 4 - Need for the Development
- Section 5 - Determination of the Application
- Section 6 - Grounds for appeal
- Section 7 – Proposed Draft Planning Conditions
- Section 8 – Documents to be referred to in evidence
- Section 9 – Summary and Conclusions

Appendices and Document Referencing

1.7 This Statement contains Appendices (A-E) and are listed below for reference:

- Appendix A: Decision Notice
- Appendix B: Original Application Documentation
- Appendix C: Case Officer's Reports to Development Control Committee
- Appendix D: Appeal Case Example
- Appendix E: Determination Correspondence

1.8 Within each appendix there are individual documents which have their own unique reference. For example, the Decision Notice within Appendix A is '**A.1**_Decision Notice' and throughout the document will be referenced as '**A.1**'. Lists of the various documents and their unique references are also provided for the original submission, documents submitted during the determination process and relevant correspondence.

2.0 Background

- 2.1 The section of the Statement sets out the content of the submitted planning application, an overview of the Appeal Site and an overview of the Development Proposals (the ‘Appeal Scheme’) for which planning permission was sought.

Application Documents

- 2.2 The planning application was submitted by SLR on 22nd January 2016 and was validated by the Council on the 26th January 2016.
- 2.3 The planning application was accompanied by a Planning Statement which described the Appeal Site; described the details of the development scheme; considered the scheme against planning policy at a national and local level; and set out the need for the development. The Planning Statement (Volume 1) was accompanied by a set of drawings illustrating the application site (location, extent and topography); and the development proposals (phased mineral extraction and infilling, ancillary developments and restoration scheme).
- 2.4 The planning application was also accompanied by an Environmental Statement (ES) as Volume 2, with the text and accompanying drawings contained in Volume 2A; a series of Appendices to the ES as Volume 2B; and a Non-Technical Summary of the ES as Volume 2C.
- 2.5 The final document submitted with the planning application was a Statement of Community Involvement (Volume 3).
- 2.6 The scope of the Environmental Impact Assessment (EIA), as reported in the ES, was based on the scoping opinion issued by the Council on 19th November 2015. This is set out in paragraphs 1.29 to 1.34 in Chapter 1 to the ES [**Document B.4.1**].
- 2.7 During the determination of the planning application several discussions were had with the Council and consultees. These were mainly in relation to restoration and transportation/highways matters and culminated in the submission of additional information (under Regulation 22 of the EIA Regulations) on 11th August 2016 and consisted of:
- (a) new access arrangements including a right turn lane;
 - (b) Transport Assessment addendum assessing HGV numbers and impacts on key junctions;
 - (c) a revised restoration concept drawing;
 - (d) details of the final three phases of mineral extraction.

The Appeal Site

- 2.8 The Appeal Site amounts to around 87.1ha and comprises the southern part of the former Hatfield Aerodrome. It is located on the north-western edge of Hatfield and to the east of St Albans on land

associated with the former Hatfield Aerodrome. Drawing HQ 2/1 [Document B.5.1] illustrates the location of the applications site.

- 2.9 It lies within an area enclosed by the A1057 (Hatfield Road/St Albans Road) to the south, Oaklands Lane to the west, Coopers Green Lane to the north and the western fringe of Hatfield to the east. For identification purposes the application site is centred on National Grid Reference (NGR) TL 199084.
- 2.10 Further details of the appeal site and its surroundings can be found in the Chapter 2 of the Planning Statement [Document B.1.2] and Chapter 2 of the ES [Document B.4.2].

Development Proposals (the Appeal Scheme)

Overview

- 2.11 The planning application sought the establishment of a new quarry on land at the former Hatfield Aerodrome, being part of the allocated site referred to in the extant Minerals Local Plan ("*Preferred Area 1*") and illustrated on Inset Map 6 (refer to Section 3 of this Statement for further information). The proposals would involve the winning and working, together with processing for sale, of some 8Mt of sand and gravel over a period of around 32 years (based on an annual output of around 250,000tpa). In parallel with the extraction of minerals would be the importation of low permeability inert material to infill the mineral workings to facilitate the restoration of the site to a beneficial after use, combining recreation and nature consideration. The imported material would typically comprise excavation wastes from construction and engineering projects (soils, overburden, clays etc.) within the region.
- 2.12 The quarry would be worked on a phased basis to allow for progressive restoration. Sand and gravel would be worked from two discrete horizons; the Upper Mineral Horizon ('UMH'), which lies predominantly above the water table, would be worked dry whilst the Lower Mineral Horizon ('LMH') would be worked wet (i.e. limited dewatering of the workings). Above the UMH is a clayey material (referred to as '*overburden*') on top of which is the soil horizon. The two mineral horizons are separated by a laterally continuous layer of boulder clay (referred to as '*interburden*'): the overburden and interburden would be used to control groundwater ingress and to infill the base of the workings to provide a suitable low permeability geological barrier on top of which the imported material would be placed.
- 2.13 Excavated material would be processed at the quarry using a combination of screening and washing plant to produce a range of graded aggregates and sands. Processed aggregates would either be dispatched from the site in HGVs or used in ancillary 'downstream' plant (a 'concrete batching plant') located within the plant site for the production of concrete. Processed aggregates and concrete (together with the import of cement) would be exported via a new access constructed onto the A1057 (Hatfield Road) on the southern side of the quarry.
- 2.14 Other ancillary development would include a weighbridge, office accommodation, electrical transformer, electrical switch-room, and small stores and maintenance building, fresh water and silt lagoons.

2.15 The proposed development of the Appeal Site is illustrated in Drawing Nos. HQ3/1 to HQ3/12 [Documents B.2.4 to B.2.15 and B.9.2 to B.9.5] as follows:

- HQ 3/1 shows the overall phasing / general layout of the quarry;
- HQ 3/2 shows the entrance design;
- HQ 3/3 shows the plant site (masterplan);
- HQ 3/4 shows the plant site layout (detail);
- HQ 3/5 shows the elevations of the processing plant;
- HQ 3/6 shows the initial site preparation works;
- HQ 3/7 shows development within Phase A;
- HQ 3/8 shows development within Phase B;
- HQ 3/9 shows development within Phase C;
- HQ 3/10 shows development within Phase E;
- HQ 3/11 illustrates the final restoration masterplan (superseded);
- HQ 3/12 provides illustrative cross sections;
- HQ 3/11 illustrates a revision to the final restoration masterplan *
- HQ 3/13 illustrates development within Phase D *
- HQ 3/14 illustrates development within Phase F *
- HQ 3/15 illustrates development within Phase G*

2.16 Drawings marked with an asterisk (*) were submitted at a later stage during determination [Documents B.9.2 to B.9.5].

General Arrangement

2.17 The new quarry would comprise the following key elements:

- new access onto the public highway and internal access road;
- plant site including processing plant, stockpiles, weighbridge, office, concrete batching plant and other ancillary facilities;
- peripheral screening mounds;
- infiltration lagoons; and
- mineral extraction area divided into 7 phases.

2.18 Drawing HQ 3/1 [Document B.2.4] illustrates the overall layout of the proposed quarry.

Restoration

- 2.19 The restoration scheme sought to deliver a beneficial after-use which has the following aims:
- to progressively deliver a landscape which is similar in character and appearance to the existing Ellenbrook Fields;
 - to improve overall biodiversity interest and value at the site;
 - reinstate the current accessibility of the greenspace to members of the local public; and
 - fulfil all engineering requirements, in terms of managing surface water and groundwater environments at the site.
- 2.20 The landcover would consist of broad area of gently sloping conservation grassland (from west to east), divided by hedgerows and with some complimentary wetland and pond features, as illustrated by Drawing HQ 3/11 (as updated by Drawing HQ 3/11A [**Document B.9.2**]).
- 2.21 At a more local level, areas of micro-topographical and substrate variation would be included to provide habitat diversity and enhancements (e.g. a range of species-rich grassland communities). The proposed waterbodies include both shallow scrapes, ponds and a deeper waterbody at the north-eastern end of the application site.
- 2.22 The scheme also aims to respond to the local landscape character of “Area 31 De Havilland Plain”, which extends from Cromerhyde in the north, southwards across the former Hatfield Aerodrome and up to the ground of Oaklands College on the edge of St Albans, as defined in The Welwyn Hatfield Landscape Character Assessment (2005), which *inter alia* refers to “an extensive level plain”.
- 2.23 The proposed hedge planting and open ditch/swale layout uses the 1888 historic field pattern which existed on the application site prior to the aerodrome and other interventions, with the aim of reinstating the broader landscape setting of the Popefield Farm listed building. Some of this remnant field pattern is still present on site, whilst some has been lost.
- 2.24 This would also create potential linkages with the existing watercourses, hedgerows, woodland and tree belts around the perimeter of the application site.
- 2.25 Full details of the development scheme can be found in the Chapter 3 of the Planning Statement [**Document B.1.3**] and Chapter 3 of the ES [**Document B.4.3**].

The Appellant’s Case

- 2.26 The merits of the proposed development are to be seen in this Statement which describe:
- The working scheme; the measures which are available to mitigate the effects of the scheme; the countryside / amenity benefits which the scheme would bring; and the restoration strategy which would be delivered (ref. Section 2.0 of this Statement);
 - Policy compliance, notably in terms of being in accordance with the development plan with

respect to which there is a presumption in favour of permission being granted, compliance with national planning policy in terms of sustainable development, and Green Belt; and

- The need for the development is emphasised via recommendations in the Local Aggregate Assessment, provided for to be via an allocation in the adopted Minerals Local Plan, and retained (following fresh analysis) into the emerging Minerals Local Plan

2.27 Overall, the Appeal Scheme merits approval, as evident from the content of the Planning Officer's Reports to the January 2017, December 2019 and September 2020 Development Control Committee (refer to Section 5 below); the comprehensive analysis undertaken of the issues associated with the development; the absence of objection from technical consultees and the recommendations made to the Planning Committees that permission be granted subject to conditions (as listed) and the prior completion of a Section 106 Agreement, the terms of which had been substantially agreed (ref. Section 5 of this Statement).

2.28 Based upon the four reasons for refusal, Section 6 of the Statement responds to what the Appellants assume will be the case to be presented by the Council.

3.0 Planning Policy

The Development Plan

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise: in effect a presumption in favour of granting planning permission for developments which are in accordance with the development plan. This principle is continued through planning policy and is at the heart of the most recent version of National Planning Policy Framework (NPPF).
- 3.2 The statutory Development Plan currently comprises the following documents:
- Hertfordshire Minerals Local Plan Review 2002 – 2016 (adopted March 2007);
 - Waste Core Strategy and Development Management Policies Document (adopted November 2012);
 - Waste Site Allocations 2011 – 2026 (adopted July 2014);
 - City and District of St Albans District Local Plan Review (adopted 1994, Reviewed 2020);
 - Welwyn Hatfield District Plan (adopted 2005).
- 3.3 Hertfordshire County Council is in the process of replacing the Adopted Minerals Local Plan Review. In this respect in 2019 the Council published the Hertfordshire Minerals Local Plan: Proposed Submission (dated January 2019). Consultation on the draft ran to March 2019. Whilst the plan has undergone consultation, it has not been considered by an Inspector appointed by the Secretary of State. As such the weight to be attached to the draft plan needs to be moderated. However, it does give an insight into the direction of travel for new policies.
- 3.4 In relation to the District Local Plans, these do not address mineral extraction and so are relevant in the context of safeguarding amenity or the environment.
- 3.5 A comprehensive review of planning policy is provided in Chapter 4 of the Planning Statement [**Document B.1.4**]. During the intervening period, 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. The following paragraphs pull out the main considerations.

Minerals Local Plan (Adopted)

- 3.6 The MLP was adopted in 2007 and covers the period between 2002 and 2016. Whilst the plan period has expired, the policies still remain in force until replaced by the emerging MLP; significant weight can be afforded to its policies. Notwithstanding this, the MLP pre-dates the NPPF and where a policy conflicts with national policy, this may reduce its weight.

- 3.7 Chapter 2 in the MLP sets out the aims of the Plan from which it can be seen that the MLP seeks to balance an adequate and steady supply of aggregates against the environmental harm that may result through the extraction and processing of minerals. In the context of Aim 2, the Plan *“seeks to identify the most suitable resources for potential sand and gravel extraction”*.
- 3.8 In terms of the strategic policies, Chapter 3 provides, through **Policy 1**, that the county will ensure that adequate supplies of aggregates are available and will seek to maintain an appropriate landbank throughout the Plan period. **Policy 2** then provides the framework for considering the need for releasing new mineral reserves. These are a material consideration in relation to the merits of the planning application. The need for new minerals reserves is considered in the following section in this Statement.
- 3.9 As noted in paragraph 3.7 above, the MLP seeks to identify areas from where sand and gravel should be extracted to maintain supplies throughout the plan period and beyond. Section 3.4 of the MLP, culminating in **Policy 3** identifies three sites, including the Appeal Site.
- 3.10 The three allocated sites in the MLP are (with the amount of reserves is shown in brackets):
- Preferred Area 1: Land at former British Aerospace, Hatfield (8Mt)
 - Preferred Area 2: Land adjoining Rickneys Quarry, near Hertford (5Mt – 6Mt)
 - Preferred Area 3: Land at Coursers Road, near London Colney (4.5Mt)
- 3.11 The southern part of Preferred Area 1 is the Appeal Site. Whilst a small part of the Appeal Site lies outside of the Preferred Area, it is a very small area compared to the remainder of the site (which is in the Preferred Area). In view of this, it is not considered that the proposals are a departure from the Plan. This was accepted by the MPA in considering the previous planning application (as noted in the committee reports **Documents C.1, C.2 and C.3**).
- 3.12 Preferred Areas 2 and 3 are extensions to existing quarries. Planning permissions have been granted for Preferred Areas 2 (in part as an easterly extension to Rickneys Quarry) and 3. Referring to paragraph 3.4.2 of the MLP, it is noted that *“the County Council has undertaken an extensive site selection process in order to identify the most suitable locations for future aggregates extraction”*. Allied to this, paragraph 3.4.6 comments that the ‘Preferred Areas’ are the parcels of land likely to be required to make up the balance of the County’s contribution to the regional apportionment for the plan period (to 2016) and the landbank period beyond.
- 3.13 The cumulative impact of mineral workings, be it simultaneous or successive, is addressed through **Policy 11**.
- 3.14 Section 4.4 of the MLP addresses the reclamation of mineral workings. Paragraph 4.4.2 recognises that traditional schemes of agricultural restoration may not always be appropriate and should not be seen as the only option. It cites biodiversity is a suitable option and advises that cognisance is given to both

the UK and Hertfordshire Biodiversity Action Plans. **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. The policy sets out ten criteria that need to be considered, including inter alia:

- respect and/or enhance the local character of the area;
- benefit the local community;
- provide improved and increased public access to the countryside and recreation and create public open space;
- create new or enhance existing water bodies for wildlife;
- support and enhance national, regional and local biodiversity action plan objectives.

1.9 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.”

3.15 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”*.

3.16 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.

3.17 It is the Appellant's case that these Policy requirements are fully discharged via the mitigation measures enshrined within the proposed development scheme.

Waste Core Strategy and Development Management Policies

3.18 The Waste Core Strategy and Development Management Policies DPD (WCS) was adopted in November 2012 and covers the period between 2011 and 2026.

3.19 Chapter 4 of the WCS sets out the strategy for waste management. It is set against the policy framework of the NPPF and former Planning Policy Statement (PPS) 10: this latter policy document has been superseded by the National Planning Policy for Waste (published in October 2014). At the outset, the chapter refers to the waste hierarchy, whereby 'disposal' lies at the bottom tier and should be considered as a final option.

3.20 Paragraph 4.12 re-states the proximity principle that is enshrined in national policy, requiring waste to be managed as close to its source as practicable. The paragraph recognises that some residual waste will come into the county from London, but this should be limited to residual waste requiring landfill. The paragraph indicates that "*The county could accept the residue for landfilling, if sufficient sites can be identified for arisings from within Hertfordshire in the first instance*". Paragraph 4.14 adds that the county's waste strategy needs to be balanced and flexible enough to allow sufficient sites to come forward to meet the county's needs for a range of different types of waste management facility. Paragraph 4.23 comments on the spatial element of the WCS, taking into account:

- the need to match overall capacity with future demand including pressures arising from outside the county;
- give priority to the reuse of previously developed land;
- the Council's sustainable transport policy;

- promoting waste management development close to the source of origin of the waste materials where possible, that provides ready access to the primary route network;
- green belt considerations.

3.21 Of particular relevance to the Appeal Scheme is **Policy 4** and the supporting text at paragraphs 4.44 to 4.57, which address landfill. It acknowledges (at paragraph 4.44) that landfill lies at the bottom of the waste hierarchy, but will still have a role to play through the Plan period, be it a diminishing role. In considering opportunities, paragraph 4.48 comments that there are more opportunities for inert waste to be disposed of in landfill within Hertfordshire (than non-hazardous wastes) given the reduced pollution potential. It goes on to refer to the preferred areas identified in the MLP (see above) commenting that they may be suitable for inert waste disposal as part of their restoration. In this context, the paragraph refers to the Sustainability Appraisal² undertaken for the WCS which concluded that the use of mineral voids for disposal of waste by landfill is a sustainable option because it limits the need to transport waste outside the county and also reduces the land-take that would be needed for new landfill sites.

3.22 In terms of a policy approach for landfill, paragraph 4.56 indicates that the policy will only allow landfill as a last resort and each proposal will be dealt with on a case by case basis, whilst paragraph 4.57 adds that mineral voids suitable for inert landfill will be safeguarded to help ensure Hertfordshire deals with its own waste as much as possible.

3.23 The final part of the policy indicates that for proposals for the disposal of waste and restoration with inert material, planning permission will only be granted where:

- the land is derelict or degraded;
- it would result in significant other environmental benefit;
- it can be demonstrated where applicable, that it is necessary to achieve restoration for mineral voids; and
- it can be demonstrated that it will not give rise to unacceptable implications to human health, amenity, landscape and the environment.

3.24 Policy 4 concludes by stating:

“Reclamation proposals should ensure that the site is restored to a state that is of equal or greater environmental or agricultural value than the previous land use.”

² Sustainability Appraisal Report, September 2010, produced by Land Use Consultants

- 3.25 Policy 11 is an overarching policy that sets out the general criteria for assessing waste planning applications, having regard to a number of environmental aspects.

Emerging Minerals Local Plan

- 3.26 The emerging minerals local plan (eMLP) acknowledges that minerals are a limited natural resource and can only be extracted where they are found (para 5.8). It adds that *“at present, primary aggregates are the main source of mineral. The Plan aims to reduce, as far as practicable, the quantity of material required, then to use as much secondary and recycled mineral in development as possible. The Plan looks to secure the remainder of mineral demand through primary, landwon mineral from designated extract”*.
- 3.27 Draft **Policy 4** is the key policy to note in that 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 is listed as *“Specific Site 1”*. Table 3 indicates that the reserves are estimated as being 8Mt. 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”*.
- 3.28 The extent of the allocation for Specific Site 1 is shown in appendix 3 to the eMLP with the area mirroring the Appeal Site.
- 3.29 From the ‘Site Profile’ in Appendix 3 in the eMLP the following is noted:
- Reserve: 8Mt;
 - Annual output: 250,000tpa;
 - Duration: 30 years;
 - Starting: years 1 – 5 of the Plan Period.
- 3.30 The Appeal Scheme accords with these parameters.
- 3.31 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.

- 3.32 Chapter 12 of the eMLP addresses the Green Belt. The opening paragraph states the intentions of the NPPF in relation to Green Belts, but notes “... *With over half of Hertfordshire designated as Metropolitan Green Belt, the need to protect the Green Belt is an important local consideration.*” Paragraph 12.2 adds “*Taking into account the temporary nature of mineral extraction and associated development, the NPPF deems mineral extraction ‘not inappropriate’ within the Green Belt, provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt. Minerals working can therefore be accommodated within the Green Belt provided that the associated developments, including buildings and processing machinery, are designed and positioned appropriately to prevent conflict with the purposes of the Green Belt.*” At paragraph 12.4 the eMLP recognises that there is also an opportunity to enhance beneficial use of land in the Green Belt following the restoration. Mineral extraction proposals that are restoration-led can be used to enhance Hertfordshire’s Green Belt.
- 3.33 These matters are encapsulated in draft **Policy 12** which provides a positive approach to development in the Green Belt, indicating that “*Proposals for mineral extraction and associated development in the Green Belt will be permitted subject to the development complying with national Green Belt policy and other policies set out in this Plan.*” It goes on to add “*Proposals must site machinery to preserve the openness of the Green Belt and prevent conflict with the purposes of including land in the Green Belt throughout the duration of mineral operations.*” In the context of inappropriate development the policy indicates that very special circumstances (VSC) must be demonstrated and that the VSC must outweigh the harm to the Green Belt (by reason of inappropriateness) and any other harm identified. The final part of the policy relates to restoration where proposals “*should preserve the openness of the Green Belt and where possible enhance the beneficial use of the Green Belt and improve the character and appearance of the countryside.*”
- 3.34 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.*”

National Planning Policy

The NPPF

- 3.35 The NPPF (updated in 2019) does not change the fundamental premise of Section 38(6) of the Planning and Compulsory Purchase Act 2004 (Paragraph 2).

3.36 At the heart of the NPPF is a presumption in favour of sustainable development, for which three ‘dimensions’ are identified:

- “An economic role”;
- “A social role”; and
- “An environmental role”.

3.37 These roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Green Belt Policy

3.38 National planning policy on the approach to the Green Belt within both plan-making and decision-taking is set out in Section 13. The protection of the Green Belt is a component of the purpose of the planning system to contribute to the achievement of sustainable development.

3.39 Paragraph 133 indicates that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

3.40 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, at paragraph 146, the NPPF identifies certain operations that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include mineral extraction and engineering operations (such as formation of screen bunds). This does not mean that a minerals development is automatically allowable in greenbelt as consideration needs to be given to how it affects openness for example. However, the temporary nature of minerals developments weighs in favour as the effects are reversible (i.e. they are not a permanent effect, even if considered long term).

Mineral Policy

3.41 Paragraph 203 of the NPPF re-states the long established concept that “*Minerals can only be worked where they naturally occur*”³:

“It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since 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.”

³ Paragraph 13 Minerals Policy Statement (MPS) 1

3.42 All mineral proposals also need to be considered in the light of paragraph 205 of the NPPF, and in particular, those aspects which are relevant to the EIA are:

- give great weight to the benefits of mineral extraction, including to the economy (i.e. socio-economic aspects);
- as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, Scheduled Monuments and Conservation Areas;
- ensure that in granting planning permission for mineral development that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and to take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in the locality;
- ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties;
- provide for restoration and aftercare at the earliest opportunity to be carried out to the highest environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances; and
- not normally permit other development proposals in mineral safeguarding areas where they may constrain potential future uses for these purposes.

3.43 Paragraph 207 adds that minerals planning authorities should plan for a steady and adequate supply of aggregates by inter alia maintaining sufficient reserves (landbank) of at least 7 years for sand and gravel, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised.

4.0 Need for the Development

- 4.1 The need for the release of new mineral reserves is addressed in chapter 5 of the Planning Statement [Document B.1.5]. This is based on data published at the time of the application; with the passage of time it is necessary to bring the chapter up to date with more recent published data in the form of the Local Aggregate Assessment 2020.

National Policy

The NPPF

- 4.2 National Minerals Policy is set out in NPPF in paragraphs 203 - 209. Most notably, the NPPF emphasises the need for MPAs to plan for a “*steady and adequate supply of aggregates*” by *inter alia*:
- a) *preparing an annual Local Aggregate Assessment, either individually or jointly, to forecast future demand, based on a rolling average of 10 years’ sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);*
 - b) *participating in the operation of an Aggregate Working Party and taking the advice of that party into account when preparing their Local Aggregate Assessment;*
 - c) *making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans, taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;*
 - d) *taking account of any published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;*
 - e) *using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;*
 - f) *maintaining landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised;*
 - g) *ensuring that large landbanks bound up in very few sites do not stifle competition; and*
 - h) *calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.*

- 4.3 In relation to landbanks, the Planning Practice Guidance⁴ to the NPPF advises that:

⁴ Reference ID: 27-084-20140306.

“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

There are a number of reasons why an application for aggregate minerals development is brought forward in an area where there exists an adequate landbank. These could include:

- significant future increases in demand that can be forecast with reasonable certainty;*
- the location of the consented reserve is inappropriately located relative to the main market areas;*
- the nature, type and qualities of the aggregate such as its suitability for a particular use within a distinct and separate market; and*
- known constraints on the availability of consented reserves that might limit output over the plan period.”*

The Development Plan

Hertfordshire Minerals Local Plan

- 4.4 As noted from the previous section, Policies 1 to 3 in Chapter 3 of the MLP consider the supply of sand and gravel within the county. At paragraph 3.2.1 the MLP indicates that “... *the County Council is committed to permitting extraction of primary aggregates so as to make an appropriate contribution to the Regional needs for the plan period*”. This is translated into **Policy 1**.
- 4.5 **Policy 2** sets out the requirements that will be taken into account when considering planning applications for new reserves. In this respect:
- i. the existing quantity of permitted reserves of the mineral;*
 - ii. the rate at which, and the proposed timescale over which it is expected that those permitted reserves will be worked;*
 - iii. the proposed rate and timescale in the application for working the mineral deposit;*
 - iv. the existence of resources of the mineral which are identified as Preferred Areas within the Plan and which are shown as being desirably worked at an early stage of the Plan period; and*
 - v. the particular nature and qualities of the mineral deposit concerned, such as the suitability for a particular end use not met by other available sources in the area or region.*
- 4.6 Finally, the MLP seeks to identify areas from where sand and gravel should be extracted to maintain supplies throughout the plan period and beyond. Section 3.4 of the MLP, culminating in **Policy 3** identifies three sites including the Appeal Site.

Hertfordshire Local Aggregate Assessment 2020

- 4.7 The LAA is an evidence base document that contributes towards the review of Hertfordshire's Minerals Local Plan. Its primary purpose is to set out the current level of aggregate supply and demand for Hertfordshire and to calculate the current landbank of sand and gravel. The LAA also acts as a monitoring report for aggregates and reports on the supply of secondary and recycled aggregates within Hertfordshire and the imports of sand and gravel and crushed rock at Hertfordshire's rail aggregate depots.
- 4.8 The LAA has been prepared to fulfil the requirements of the NPPF.

Annual Apportionment

- 4.9 The LAA indicates that the current annual apportionment for Hertfordshire is 1.39 Mt of sand and gravel, which is lower than the figure used in the MLP. The county's sand and gravel apportionment figure has changed over time due to periodic reviews. In 1998 the annual apportionment was set at 2.4 million tonnes. The annual apportionment in the current adopted Minerals Local Plan was set at 1.99 million tonnes for the period 2002-2016⁵. This figure was subsequently reviewed through the National and Regional guidelines in 2009 and now stands at 1.39 million tonnes for the period 2005-2020. This sub-regional apportionment was approved by the East of England Aggregate Working Party.
- 4.10 The LAA states that the 1.39Mtpa apportionment figure more closely reflects the sales figures and at the same time still provides flexibility to account for the anticipated continued rise in sales of sand and gravel in Hertfordshire, in line with the high levels of growth being planned for in the Hertfordshire District and Borough Local Plans.
- 4.11 The LAA also refers to guidance contained in paragraph 207 of the NPPF whereby MPA's should prepare an annual LAA '*based on a rolling average of 10 years sales data, and other relevant information, and an assessment of all supply options (including marine dredged, secondary and recycled sources)*'. At paragraph 3.18 the LAA comments that "*the NPPG suggests the use of the 3 year sales average to identify a general trend in sales and consider increasing supply if this is appropriate. The NPPG states that the rolling 10 year average, 3 year average sales and sub-regional guidelines should all be taken into account in order to establish a broad view of planned provision*". On this basis, the LAA calculates that the apportionment based on ten years sales average would be 1.19Mt per annum and the three year sales average (2017 to 2019) would be 1.21Mt per annum. Both are lower than the agreed apportionment of 1.39Mt per annum. Allied to this the ten year average is lower than that derived from the last three years of sales, which implies that there is an increasing trend of supply (i.e. demand for aggregates is increasing). This is probably to be expected given the economic downturn that occurred from 2007 together with the Government's agenda for growth.

⁵ as detailed in former Minerals Planning Guidance Note 6: Guidelines for Aggregates Provision in England, 1994-2016, April 1994, and amended June 2003

Sales of Sand and Gravel

- 4.12 From paragraph 3.3 of the LAA sand and gravel sales at the end of 2019 stood at 1.25Mt; an increase of approximately 41,504 tonnes when compared to the previous year's figure (which was 1.21Mt at the end of 2018). This means that sales have reached 1.20Mt and above, 5 times over the last 10 year period (2010-2019) and are also the highest they have been since 2011. From Figure 4 in the LAA, the 2019 sales exceed the 10 and 3 year average sales figures.
- 4.13 The LAA goes on to note that the average sales of sand and gravel in Hertfordshire over the last 10 years is 1.19Mt (2010-2019). As a comparison, this figure was 1.19Mt as of the end of 2018, 1.16Mt as of 2017 and 1.15Mt as of 2016, thereby remaining relatively constant but seeing a small increase over the last few years.
- 4.14 Similarly, the rolling 3 year sales average is 1.21Mtpa (2017-2019). This figure was 1.18Mt at the end of 2018 and 1.19Mt at the end of 2017. The sales in the last 3 years (2017-2019) have continued to steadily increase resulting in the highest 3 year average recorded since 2011.
- 4.15 In terms of permitted sites, paragraph 2.11 notes that there are eight permitted sand and gravel quarries in Hertfordshire as of the end of 2019. Of these sand and gravel extraction is currently taking place at three (as of the end of 2019). These three sites are:
- Tyttenhanger Quarry, Colney Heath;
 - Hatfield Quarry with the linked Symondshyde extraction site; and
 - Thorley Hall Farm.
- 4.16 The remaining five sites are not extracting sand and gravel and are either not currently operating or are in the process of infill/restoration or are close to reaching aftercare.
- 4.17 Thorley Hall Farm is an extraction of 500,000t of sand and gravel to create a reservoir and is to be completed by 30 June 2021.
- 4.18 In terms of the cessation of mineral extraction at the operational sites, Tyttenhanger Quarry is due to cease by 31 December 2032 and Hatfield Quarry by 1 October 2020. Notwithstanding this, planning permission has been granted for an area known as Furze Field, which will be worked as an extension to Hatfield Quarry; at the time of drafting the LAA the permission had not been started. The Furze Field permission allows operations until 31 December 2023.

Permitted Reserves

- 4.19 In 2010 reserves stood at 10.8Mt. In 2011 there was a significant increase of permitted reserves by nearly 6mt. In 2012 and 2013 the level of permitted reserves fell by 900,000t and increased by 468,000t respectively. The significant uplift in permitted reserves in 2011 followed the grant of planning

permission for an extension to Tyttenhanger Quarry. Since 2013 the level of permitted reserves has decreased steadily; with the exception of 2018 (where the decrease was 402,000t), the reduction ranges between 1.1Mt and 1.8Mt.

Future Reserves

- 4.20 The LAA refers to the grant of planning permission at Land adjoining Coopers Green Lane, Hatfield Quarry (planning reference number PL\0963\18); that permission would increase the level of permitted reserves by 3.5Mt.
- 4.21 Allied to this, the LAA notes that an application was submitted for a variation of condition (time limit for commencement) on a previous planning application for an eastern extension to the previously mothballed site at Rickneys Quarry, to extract 1.24Mt of sand and gravel (planning reference number 3/2077-13). LAA states that this application remained undetermined as of the end of 2019; the Council's website indicates that this is still the case. It is understood that a resolution was made in January 2014 to permit the application subject to the conclusion of a legal agreement to reflect the obligations constrained in the existing Section 106 agreement. The committee minutes also indicate that permission should be implemented prior to 23 December 2017.

Landbank of Permitted Reserves

- 4.22 As noted above, the level of permitted reserves stood at 8.951Mt at the end of 2019. Based on the annual apportionment of 1.39Mt, this equates to 6.4 years. Paragraph 3.26 in the LAA shows that since 2013 there has been a steady decline in the landbank from 11.7 years (2013).
- 4.23 The LAA then goes on to calculate the landbank based on the 3 and 10 year rolling average sales, indicating that the landbank is 7.4 years (based on 3 year average sales) and 7.5 years (10 year average sales). Accordingly, the LAA comments (paragraph 3.30) that when using the 1.39Mtpa apportionment figure, Hertfordshire's landbank sits just below the required [by the NPPF] minimum.
- 4.24 Given that planning permission has been granted for a further 3.5Mt of sand and gravel (which was not taken into account in the figures provided in the LAA) then the landbank would be closer to 8.96 years. However, to arrive at an accurate position for 2021, sales for 2020 would need to be deducted from the total level of permitted reserves. With sales averaging 1.21Mt between 2017 and 2020, the landbank at the beginning of 2021 would therefore be closer to 8 years.

Future Aggregates Supply

- 4.25 The LAA notes the resolution made to refuse to grant planning permission for the working of mineral resources within the application site. Notwithstanding this, the LAA indicates that *"Whilst the application at Land at Hatfield Aerodrome was refused, it still remains as an identified Preferred area (Preferred Area 1) in the adopted Minerals Local Plan 2007 and has a potential yield of up to 8Mt of sand and gravel"*. It also adds that *"Specific Site 1 [Hatfield Aerodrome] has been subject to extensive assessment through a Sustainability Appraisal and Site Selection Study (both documents prepared by*

Land Use Consultants and produced to support the review of the Minerals Local Plan) and is seen as a suitable for identification as a Specific Site in the emerging Minerals Local Plan”.

- 4.26 The LAA concludes by stating that there are significant levels of growth being planned for within the Hertfordshire Local Plans and planning applications for large scale development are continuing to come forward. This level of projected housing supply and increased frequency of large-scale applications coming forward, will require an adequate provision of minerals to be planned for and supplied.

Analysis by the Planning Officer in relation to the Planning Application

- 4.27 Consideration of the need for the release of new reserves is set out in the September 2020 Report to the Development Control Committee [**Document C.2**] with paragraphs 8.9, 9.2 and 9.3 confirming that there is a need for the Appeal Scheme.

Need for Inert Fill

- 4.28 The need to import inert fill material arises through the need to provide a beneficial restoration scheme and in particular, to create the ‘country park’ as envisaged in the Supplementary Planning Guidance. The material to be imported would be non-recyclable material that has a high clay content, being derived from site clearance works associated with new developments within the region.
- 4.29 The infilling of mineral workings with inert materials is not unusual within the county. For example. As noted in the 2014 AMR it comments at paragraph 3.28 “... *three quarries accepting inert waste for restoration purposes in 2012 (Tyttenhanger, Hoddesdon and Great Westwood).*” Appendix 2 of the same document indicates that:
- restoration of Hoddesdon Quarry is due for completion in August 2016;
 - planning permission allows inert material to be deposited in Pole Hole Quarry (planning permission expired in November 2014);
 - planning permission allows inert material to be deposited in Waterhall Quarry (planning permission expired in November 2014);
 - planning permission for Great Westwood Quarry expired in April 2014
- 4.30 Referring to more recent AMR’s, in 2017 and 2018 the AMR’s comment on permissions at Water Hall Quarry (application and appeal to extend date for restoration to December 2019) and Great Westwood Quarry (end date of September 2018) for restoration using inert wastes.
- 4.31 In the 2020 AMR there is little reference to inert waste being used to restore mineral workings; from Appendix 2 (List of Safeguarded Waste Sites) it notes that inert waste is used at Panshanger Quarry, Tyttenhanger Quarry and Hatfield Quarry.

- 4.32 In terms of arisings, as noted in the 2016 Planning Statement the 2014 and 2013 AMRs provide data showing the how C&D wastes are managed within the county.

Table 4-1
C&D Waste Arisings and Management (t)

Year	Landfilled	Transferred	Treatment	Metal MRS	Total
2011	925,808	354,901	229,206	4338	1,514,253
2012	922,312	156,992	231,001	149	1,310,454

- 4.33 Between 2011 and 2012 there has been a 13.5% reduction in waste arisings; however, there has not been a corresponding reduction in the quantity of C&D wastes landfilled. In this respect there was a reduction of around 3,500t. The main change is in the amount transferred. With the completion of restoration of a number of quarries within the county (as noted in paragraph 4.29 above), new capacity will be required.
- 4.34 Turning to more recent AMR's the following has been reported:
- 2016 - 44% was diverted from landfill equating to a 3% increase from 2015 figures. This figure is based on the total of the waste management category CD&E (2,331,412t) minus the landfill figure for this category (1,315,131t). (Paragraph 3.13)
 - 2017 - 43.8 % was diverted from landfill equating to a 0.2% decrease from 2016 figures. This figure is based on the total of the waste management category CD&E (2,462,594) minus the landfill figure for this category (1,384,279). (Paragraph 3.12)
 - 2018 - 44.13% was diverted from landfill equating to a 0.33% increase from 2017 figures. (Paragraph 3.2.16)
 - 2019 - 41% was diverted from landfill equating to a 3.13% decrease from 2018 figures. (Paragraph 3.1.17).
- 4.35 The most recent AMR (2020) states at paragraph 3.1.12 *"Based on the data taken from the Waste Data Interrogator 2018, a total of 1,295,200.6 tonnes of C&I waste was recycled or composted. Of the C&I waste dealt with in Hertfordshire 80.8% was recycled or composted. This is compared to 52.1% in the previous year".* However, the AMR notes that *"One record within the WDI (2018) accounts for 66% of the total C&I waste generated. The entire C&I waste arisings from that record were sent for recycling and therefore the total recycled or composted figure is significantly higher than the previous year. Removing this single record gives a total of 43% of C&I waste recycled or composted."*
- 4.36 It then adds (paragraphs 3.1.13 and 3.1.14):

“Based on data taken from the Waste Data Interrogator 2018, of the Construction, Demolition and Excavation (CD&E) waste dealt with in Hertfordshire in 2018, 38.6% was diverted from landfill, which equates to a 2.4% decrease from last year’s figures, which were based on data obtained from the Waste Data Interrogator 2017.

This is a low percentage and shows that the predominant form of management for CD&E waste remains as landfill. The 90% diversion target is to be achieved by 2026 and as such will be carefully monitored.”

- 4.37 From the AMRs it can be seen that the landfill of inert (CD&E) wastes is still the predominant form of management within the county; this in part can be attributed to the beneficial use of the inert waste arisings to restore mineral workings.

5.0 Determination of the Application

- 5.1 The planning application was first reported to the meeting Hertfordshire’s Development Control Committee on 25th January 2017 (‘January 2017 Report’, **Document C.1**).
- 5.2 The application was recommended for approval, with a summary of the reasons for the recommendation set out in paragraphs 2.1 to 2.8, stating that “... *the Chief Executive and Director of Environment be authorised to grant planning permission subject to:*
- A. *the conditions set out in Appendix III of this report*
 - B. *the mineral operator and landowner entering into a new s106 legal agreement in relation to the mineral development, as set out in the draft Heads of Terms set out in Annex IV of this report;*
 - C. *the landowner enters into a deed of variation to the original s106 between the County Council, Welwyn Hatfield, and St Albans, with the effect that the Ellenbrook Park is formally established in accordance with the principles of the Hatfield Aerodrome SPG prior to the commencement of mineral workings; and*
 - D. *That the deed of variation be completed within 12 months of the resolution to grant planning permission, otherwise the matter be referred back to this committee for a decision how to proceed.”*
- 5.3 In arriving at the recommendation for approval, the Planning Officer identified 14 key issues to be considered in determining whether the application is acceptable, namely:
- The need for mineral working
 - The principle of mineral working at the site
 - Green Belt
 - Ellenbrook Country Park
 - Transport
 - Noise
 - Air Quality
 - Cultural Heritage
 - Amenity
 - Landscape
 - Water
 - Ecology

- Rights of Way
- Cumulative impact

5.4 Members resolved to grant planning permission subject to the completion of a new section 106 agreement in addition to a deed of variation to the original section 106 related to the redevelopment of the former British Aerospace site. The purpose of the deed was to insert new timescales for the delivery of Ellenbrook Park and associated clauses.

5.5 The application was also reported to the 18th December 2019 meeting of the Development Control committee [**Document C.2**], again with a officer recommendation to approve the application subject to:

- (a) completion of a new s106;
- (b) the conditions set out in Appendix 3 to the report, and;
- (c) referral of the application to the Secretary of State for a decision on whether or not to call-in the application for determination.

5.6 The committee resolved to defer the consideration of the application to a future meeting of the Committee subject to further advice from the Environment Agency and Affinity Water regarding the risk of contamination to the water supply from the Bromate Plume.

5.7 In the period following the December 2019 committee meeting and leading up to the September 2020 committee meeting the Appellant progressed the s106 Agreement. Allied to this, correspondence was received from Affinity Water which resulted in several meetings culminating in the submission in January 2020 of:

- Groundwater Management Plan
- Borehole Monitoring Data 2013 - 2019

5.8 The application was finally reported to the Development Control Committee at their meeting of 24th September 2020 ('September 2020 Report', **Document C.3**). A summary of the application was set out in Section 3 of the September 2020 Report, with the officers' recommendation set out in paragraph 3.10, being:

"The report recommends that planning permission be granted subject to:

- the conditions set out in section 10 of this report; and*
- completion of the new s.106 agreement to provide for the new site access and related highway works on the A1057; extensions to the rights of way network; and*
- completion of a unilateral undertaking to the effect that the mineral operator will not permit the implementation of the planning permission (subject to an 18-month expiry clause) until the deed of variation has been signed to deliver Ellenbrook Park, creation of the Ellenbrook Trust, and payment of the Ellenbrook Park Contribution,; and*

- *referral of the application to the Secretary of State”*

5.9 In arriving at the recommendation for approval, the Planning Officer identified 12 key issues 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:
 - groundwater pollution
 - transport
 - landscape and visual impact
 - residential amenity - noise and air quality
 - cumulative impact
 - ecological impact

6.0 Grounds for Appeal

- 6.1 Planning is founded upon a ‘plan led’ system where plans set out a vision and a framework for the future development of the area, addressing needs and opportunities in relation to housing, the economy, community facilities and infrastructure – as well as a basis for conserving and enhancing the natural and historic environment, mitigating and adapting to climate change, and achieving well designed places⁶. In so doing, plans provide certainty for developers and the public about the type of development that will be permitted at a particular location.
- 6.2 The importance of the plan led system is reflected in the long standing requirement that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise, with, in effect, a presumption in favour of granting permission for development which is in accordance with the development plan.
- 6.3 In this context, the starting point for the determination of the planning application is the Hertfordshire Minerals Local Plan (adopted 2007), and, in particular, the allocation of the Appeal Site for future quarrying as a ‘preferred site’. Noting the text at paragraph 3.4.1 in the MLP *“A primary purpose in identifying areas in which mineral working might be encouraged is to give clear guidance to users of the Plan, both as to where permission is likely to be forthcoming, and where permission is unlikely to be granted during the plan period.”*
- 6.4 As set out in Section 1 of this Statement, the Council has put forward four reasons for refusing planning permission. These reasons are taken in turn in this section, with the Appellant’s case put forward as to why the reason is incorrect. Based on this analysis, it is the Appellants case is that no material reason for refusal has been substantiated, the appeal should be allowed, and permission should be granted for the development scheme as submitted to the Council.

Reason 1 - Green Belt

- 6.5 The Council states that the application is contrary to policy contained in paragraphs 133, 134, 143, 144, 146 of the NPPF.
- 6.6 The Appellant accepts that great importance is attached to the Green Belt, noting the fundamental aim is to prevent urban sprawl by keeping land permanently open. It is also accepted that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances (VSC), where 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. Notwithstanding this, the NPPF does indicate that both mineral extraction and engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The purposes referred to are set out in para 134, namely:

⁶ Planning Practice Guidance Para 001 Reference ID: 61-001-20190315

- (a) to check the unrestricted sprawl of large built-up areas;
- (b) to prevent neighbouring towns merging into one another;
- (c) to assist in safeguarding the countryside from encroachment;
- (d) to preserve the setting and special character of historic towns; and
- (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 6.7 Within defined Green Belt areas, the NPPF encourages local planning authorities to plan positively to enhance their beneficial use such as looking for opportunities to provide access, to retain and enhance landscapes visual amenity or biodiversity, or to improve damaged land (paragraph 141). The Appeal Scheme makes provision for such enhanced access, landscape and biodiversity via the proposed restoration scheme; this was noted in the January 2017 Report (paragraph 10.77) and the September 2020 Report (Paragraph 9.7).
- 6.8 Within the Council's reason they focus 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 Reports [**Documents C.1 and C.3**].
- 6.9 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 to minimise 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, 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. To facilitate extraction, defined haul roads are required to allow the as-dug mineral to be transported from the face to the plant site and 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.
- 6.10 It is noted from paragraph 11.9 in the January 2017 Report 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.”

- 6.11 In noting that only openness is cited in the reason, 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 para 6.6 above).
- 6.12 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 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 affected at any one time. Accordingly, the effects are not permanent and so the proposals do not affect the ‘permanence’ of the Green Belt.
- 6.13 In relation to NPPF policy therefore, the consideration rests with whether there is a significant effect on the openness of the Green Belt. This has been the subject of numerous cases. Most recently, in the Supreme Court ruling of **Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council** (2020), openness was defined as the counterpart of urban sprawl. It was held that openness is not necessarily a statement about the visual qualities of the land, although 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 22).
- 6.14 As noted in **Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government** (2013) *“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).
- 6.15 As such, ancillary infrastructure to support mineral extraction can be appropriate in the Green Belt; national policy does not make it automatically inappropriate. There is therefore a threshold, below which the infrastructure can be considered appropriate and above which it is not. The nature of the infrastructure proposed as part of the Appeal Scheme is not excessive for the scale of operation. 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”*.

- 6.16 It is noted from the Secretary of State's (SoS) letter dated 4 April 2019 [**Document D.1**] 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 Inspectors 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 SoS disagreed and indicated that they would not be inappropriate development.
- 6.17 The Appellant's case is therefore that the ancillary infrastructure would not affect the openness of the Green Belt to an extent that would 'tip the balance' to make it inappropriate development. To support this, the Appellant will provide evidence from a Landscape Architect to address visual impacts and openness. Notwithstanding this, if it is found that any part of the ancillary infrastructure is inappropriate development in the Green Belt, the Appellant will demonstrate that VSC exist to overcome the 'great weight' attached to protecting Green Belts. Whilst it is noted that VSC also need to outweigh any 'other harms' that the proposal may cause, in this case (and as demonstrated through Reasons 2 to 4 and noted in both the 2017 and 2020 Reports) other harms are minor (not significant) and would not run contrary to the Development Plan policies. It is the Appellants case that VSC exist from:
- The need for the release of new mineral reserves to ensure a "*steady and adequate supply of aggregates*" and the great weight that is attached to mineral extraction;
 - The benefits of co-locating ancillary development with mineral extraction;
 - The landscape and biodiversity benefits derived the restoration scheme to provide a country park;
 - Other benefits weighing in favour of the scheme

Reason 2 - Duration of Operations

- 6.18 The Council state that the proposals are contrary to Policy 13, Policy 2 and Policy 18 of the MLP as restoration would not be achieved in a reasonable timescale.
- 6.19 In terms of national policy the NPPF requires schemes to provide for "*restoration and aftercare at the earliest opportunity*", which the Appellant's are committed to carrying out "*to high environmental standards*".
- 6.20 Policy 13 on 'reclamation schemes' indicates that the Council will not allow land worked for minerals to become derelict or remain out of beneficial use. All applications for mineral workings must be accompanied by a detailed, comprehensive proposal for progressive reclamation wherever practical. The application is accompanied by a comprehensive restoration scheme, as described in Chapter 3 of the ES [**Document B.4.3**] and summarised earlier in Section 2. The restoration scheme was the subject of discussion through the determination of the planning application, with iterations made to take on

board comments made (see revised restoration scheme at **Document B.9.2**). At no point has the Council indicated that the restoration scheme is deficient. In this respect it is noted from paragraph 9.6 of the September 2020 Report the officer considered that the proposals were consistent with Policy 13.

- 6.21 The policy sets out six reasons why the Council will refuse planning applications, with the third reason stating *“the proposals, although feasible, are considered unlikely to occur within a reasonable timescale”*. The supporting text to the policy does not provide much guidance to explain what may be considered a reasonable timescale. Paragraph 4.4.4 states *“A fundamental principle of mineral extraction is that it is a temporary use of land. Although the length of time for some sites can extend to several decades, the site, when exhausted of its mineral, must be returned to a use that benefits the community as a whole”*. Here it is interesting to note the reference to several decades.
- 6.22 Policy 2 indicates what factors will be taken into consideration when determining planning applications. This includes:
- the rate at which, and the proposed timescale over which it is expected that those permitted reserves [relating to the existing quantity of permitted reserves of the mineral] will be worked;
 - the proposed rate and timescale in the application for working the mineral deposit.
- 6.23 This policy is focused on the consideration of the need for mineral working and so is aimed at considering how the proposals accord with the landbank fundamentally to ensure that there is not over or under supply. There is no guidance on reasonable timescales within the supporting text, nor any implication on how quickly sites should be worked.
- 6.24 Finally, Policy 18 sets out a number of operational criteria to be applied to ensure that mineral extraction takes place in a planned and orderly fashion, whilst minimising any adverse environmental effects. In the context of the Council’s reason for refusal it is presumed they are referring to the second limb of the policy, which requires proposals to *“demonstrate a satisfactory restoration landform, including full details of landscaping and long term land management, which can be secured within a reasonable timescale and are appropriate to the area”*. Again, no guidance is provided in the supporting text to this policy on what a reasonable timescale would be.
- 6.25 The proposed restoration scheme would be undertaken on a progressive phased basis in line with good operational practice. In common with other quarries in Hertfordshire, the restoration scheme allows for the filling of mineral voids with inert waste materials to return the site to close to original ground levels; this avoids the proliferation of water bodies in an area (as can be seen in several river major valleys in England) which would alter the landscape character. As soon as an area is filled, soils would be respread and the area seeded/planted. The overall aim is to be able to return land back for public access at the earliest opportunity. This is recognised in the September 2020 Report with the conclusion drawn in paragraph 8.85 that *“it is likely that the restoration will be achieved within an appropriate timescale”*. Turning to the January 2017 Report paragraph 10.183 noted the that the restoration proposals *“are sufficiently detailed to determine the application”* with paragraph 10.184 adding that

the proposed restoration “*will ensure restoration is achieved at the earliest opportunity to high environmental standards*”. These statements clearly contradict Reason 2.

- 6.26 The overall duration of the proposals is around 32 years (which is obviously dependant on fluctuations in the demand for aggregates). Given the need for new infrastructure (plant, machinery, access roads etc.) then a suitable quantity of reserves is required to support the investment required in plant and machinery, along with acquiring the land and minerals. The MLP indicates that the reserve in PA1 (BAE Hatfield) is 8Mt which is the same as for the Appeal Scheme. Moreover, in the emerging MLP, the Appeal Site is allocated (Specific Site 1), again with a reserve of 8Mt and an anticipated output of 250,000tpa. Referring to paragraph 8.9 of the September 2020 Report, the planning officer states “*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.*” There is no suggestion that the duration would be too long.
- 6.27 Other quarries in Hertfordshire have lengthy durations, and permissions have been granted on a piecemeal basis. For example, at Tyttenhanger Quarry the first permission is understood to have been granted in December 1947, with other consents granted in 1973 (W/1552-73), 1986 (5/0826-84), 2001 (0/0085-97) and 2011 (0/1353-06). Notably, the 2001 permission allowed extraction of 6.2Mt of sand and gravel from 50.5ha over a period of 12 years; the 2011 permission allowed extraction of 7.1Mt of sand and gravel from 84ha over a period of 15 years (however, the proposals allowed for a consolidated approach with the 2001 permission giving an overall working life of 25 years).
- 6.28 It is therefore clear that the Appeal Scheme is in line with both the adopted and emerging MLPs, which themselves have been the subject of assessment. It is the Appellant’s case that the proposals accord with Policies 2, 13 and 18.

Reason 3 – Impact on Amenity

- 6.29 The third reason is in two parts. First, the Council considers that the increase in HGV traffic associated with the transport of minerals and inert wastes would have unacceptable impacts on the local environment in terms of noise and dust, contrary to Policies 16 and 18. The second part is that the proposals would adversely affect the local environment, contrary to Minerals Policy 11. It is noted that reference is made in Reason 3 to policies contained in the Welwyn Hatfield District Plan; this is considered odd given that the site straddles two districts and that the MLP is the primary policy document. Whilst this statement focusses on the MLP policies, the Appellant’s case will also review the district level policies in evidence presented to inquiry.
- 6.30 Considering the first part of Reason 3. The second paragraph to Policy 16 states “*Mineral development will only be permitted when the provision for vehicle movement within the site, the access to the site, and the conditions of the local highways network are such that the traffic movements likely to be generated by the development including the proposed afteruse would not have an unacceptable impact on highway safety, the effective operation of the road network, residential amenity or the local environment*”. As the Council has stated in the reason that it is emissions to air from increased HGV

movements, the conflict with the policy must be in relation to the last six words, namely *residential amenity or the local environment*. For Policy 18, the eighth limb states that “*demonstrate that no significant noise intrusion will arise from the development*” whilst the ninth limb states “*demonstrate that no significant degradation of the air (particularly from dust and emissions) ... will occur*”. Neither of these specifically relate to traffic as set out in the reason; they relate to the operation as a whole.

6.31 Policy 16 refers to “*unacceptable impacts*” whilst Policy 18 states no “*significant impact*”. The terminology used in the policies reflect that some impacts will occur (and be considered acceptable). This is noted in the MLP at paragraph 3.3.1 for example where it states “*All mineral extraction will involve disturbance and harm to the area in which it takes place*” and paragraph 4.1.1 which states “*It is unavoidable that mineral extraction will always result in harm to the environment. However, through careful design, planning, operation and control the adverse effects can be mitigated to make it more acceptable*”. Moreover, the NPPF contains an implicit acknowledgement that all mineral extraction operations will give rise to some degree of impact, and the requirement is thus to ensure that there is no “*unacceptable adverse impact*” on the natural and historical environment and human health. In this context the Appellant does not consider the impacts to be “*unacceptable*”. The NPPF further requires that any “*unavoidable*” noise and dust should be “*controlled, mitigated or removed at source*”, which has been a key element of the project design in his case.

6.32 It is noted at paragraph 8.57 of the September 2020 Report, under the heading of highways, that the planning officer considered that proposals complied with Policies 16 and 18.

6.33 The ES included assessments on Air Quality (Chapter 9, **Document B.4.9**) and Noise (Chapter 10, **Document B.4.10**). In relation to Air Quality off site traffic emissions were considered at paragraphs 9.92 to 9.96, along with Appendix 9/1 [**Document B.6.21**]. Overall the assessment concluded:

“The change in air quality as a result of additional HDV traffic on local roads is predicted to be ‘small’ to ‘imperceptible’ and therefore the impact is considered ‘negligible’ according to IAQM / EPUK assessment criteria”.

6.34 Referring to the September 2020 Report [**Document C.3**] the following is noted (para 8.68, 8.69):

“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.

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.”

- 6.35 Turning to noise, the assessment undertaken and reported in the ES shows that noise levels from the proposed operations (including transportation) would be below the derived noise limit of 55dB(A) for all receptors assessed, except one, where noise levels would be equal to the limit. As noted in the assessment, these are worst-case operational noise levels when all operations are taking place simultaneously and at their most exposed elevation or closest approach. For the majority of the life of the development operations would be undertaken at greater distances and/or lower elevations within the void and therefore noise levels are likely to be lower than those predicted. Whilst no specific mitigation measures were considered necessary (above those designed into the scheme), further measures based on best practice were identified.
- 6.36 In considering the planning application the MPA appointed an independent noise specialist to review the noise chapter in the ES. That review concluded:
- i. An acceptable noise situation should occur for residents of all of the nearby residential dwellings during the construction phase of the proposed sand and gravel quarry, when assessed in accordance with British Standard BS: 5528-1;
 - ii. [provided the noise mitigation measures are implemented] an acceptable noise situation should occur for residents of all nearby residential dwellings during the operational phase of the proposed sand and gravel quarry, when assessed in accordance with NPPG; and
 - iii. [provided the noise mitigation measures are implemented] an acceptable noise situation should occur for residents of all nearby residential dwellings when assessing the cumulative impacts of the proposed site operations in accordance with the Guidelines for Environmental Noise Impact Assessment.
- 6.37 Again, referring to the officers September 2020 Report [**Document C.3**] the following is noted (8.67):
- 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”.*
- 6.38 Considering the second part to the Reason, Cumulative impacts. The Reason cites “*The impacts of concurrent mineral workings would adversely affect the local environment, contrary to Minerals Policy 11*”. The Reason does not state any particular facet of the environment that would be affected. Policy 11 is a short policy, negative in its phrasing and requires consideration of collective effect of different impacts, or in relation to the effects of a number of minerals developments occurring either concurrently or successively.
- 6.39 Individual chapters in the ES considered cumulative impacts, with Chapter 13 [**Document B.4.13**] drawing together the various assessments and setting out the conclusions. The chapter clearly shows that no cumulative impacts would arise.

- 6.40 Referring to the September 2020 Report [**Document C.3**] clear consideration has been 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 concludes 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*”.
- 6.41 It is therefore clear that the Council’s officer accepted the findings of the ES in relation to the potential impacts on amenity and cumulative impacts. Moreover, the officer advised committee members that the proposals accorded with Policies 16 and 18 (in relation to amenity) and 11 (in relation to cumulative effects). Again therefore, the reports presented to the Development Control Committee clearly contradict the Reason given for refusing planning permission.
- 6.42 Overall therefore, the Appellant considers it has demonstrated that the proposed operations would not run contrary to development plan policies identified in Reason 3. This will be demonstrated through evidence presented to the inquiry by Expert Witnesses addressing noise and air quality. Subject to the Council’s case, the Appellant may call an Expert Witness to address other environmental aspects.

Reason 4 – Impact on the Water Environment

- 6.43 The fourth reason relates to the water environment and indicates that the Council consider that it has not been demonstrated to their satisfaction that the risks to the water environment from mineral working are acceptable; and, that all routes to possible contamination have been appropriately investigated; and, that all necessary mitigation against all risks has been included in the proposal; and, that the proposed mitigation will be effective. As such, the proposals run contrary to Policy 17(iv) in the MLP and paragraph 170 of the NPPF. Again, it is noted that a reference is made to a district level policy.
- 6.44 The reason starts by referring to bromate pollution to the north of the Appeal Site. It is therefore presumed that it is this aspect that the Council has concerns over, and not wider impacts on surface water or flooding.
- 6.45 Policy 17(iv) states that planning permission will not be granted “*if the development and/or subsequent after-use would have a negative quantitative and/or qualitative impact on the water environment, including main rivers, ordinary water courses and groundwater resources, unless appropriate measures can be imposed to mitigate any harmful effects*”.
- 6.46 In relation to the NPPF, paragraph 170(e) indicates that planning policies and decisions should contribute to and enhance the natural and local environment by “*preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans*”.

- 6.47 Chapter 6 of the ES [Document B.4.6] provided a detailed assessment of the Appeal Scheme on the Water Environment. The assessment was supported by ten appendices including a Land Quality Risk Assessment; Water Framework Directive Compliance Assessment; Flood Risk Assessment & Surface Water Management Plan; and Groundwater, Surface Water and Drain Management. Having assessed the likely effects the assessment put forward mitigation measures (paragraphs 6.126 to 6.141) and identified (in Table 6-17) that the significance of the residual effects would be minor for nine of the ten potential impacts identified, with the tenth being negligible. In relation to bromate, the assessment concluded that there is a risk that pumping groundwater from the LMH site would intercept the bromate plume potentially causing the plume to spread. It went on to add that measures are incorporated into the design and operation of the site so that this risk would not be significant. Overall, the assessment concluded that there would be no significant residual effects of the proposed development after inclusion of the identified mitigation measures.
- 6.48 From the January 2017 Report it is noted that the Environment Agency raised no objections subject to the imposition of conditions including a water management plan (paragraph 8.5). Similarly, no objections were raised by the Local Lead Flood Authority.
- 6.49 The planning officer's analysis on the water environment is set out in paragraphs 10.190 to 10.202, with conclusions set out at 11.5, noting that *"The effect of the mineral operation on the environment in terms of noise, air quality, traffic and groundwater would be limited and where there are impacts it is possible to mitigate them by the use of planning conditions"*.
- 6.50 As noted from Section 5 above, in the period between the three committees SLR submitted further information to the Council in relation to the water environment, notably the Ground Water Management Plan [Document B.17] that was to be required under a planning condition. Allied to this, a comprehensive response [Document B.18] was provided by SLR to the Council regarding consultation responses received by the Council in relation to the Ground Water Management Plan.
- 6.51 Turning to the September 2020 Report, paragraph 7.11 sets out the EA's response to the Groundwater Management Plan. It is noted that the EA considered that a *"significant body of site-specific hydrogeological information"* had been provided. The EA indicated that the proposed development *"will be acceptable if it proceeds in line with the submitted documents referred to above, and a planning condition is included requiring the submission of a Water Monitoring & Management Plan for each phase"*. Paragraph 8.25 notes the discussions with the EA and Affinity Water and that it has been demonstrated that risks will be mitigated, with paragraph 8.45 indicating that no objection is raised by the EA. Paragraph 8.47 then refers to discussions with Affinity Water, indicating that they were satisfied that arrangements will ensure that sources of water that we use for public water supply are protected during quarrying activity. In their view the Groundwater Management Plan condition proposed by and agreed with the Environment Agency is appropriate and adequate in accordance with the relevant Government Guidance. The officers report then states at paragraph 8.48 (emphasis added):
- "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 [paragraph 170] 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.”

- 6.52 This directly contradicts Reason 4.
- 6.53 Finally, the September 2020 report concludes that the additional borehole monitoring data and Groundwater Management Plan has demonstrated that the potential risks are capable of being managed throughout mineral extraction and restoration via the condition recommended by the Environment Agency and operation of the Environmental Permit. Again, this is contrary to the wording of Reason 4.
- 6.54 The Appellants case is therefore that sufficient information has been provided and based on the lack of objection from the EA or Affinity Water, coupled with the planning officer’s own assessment as presented in the 2017 and 2020 Reports, together with the proposed Groundwater Management Plan secured by planning condition, there is no rational reason for the Reason 4.

7.0 Proposed Draft Planning Conditions

- 7.1 Should the Appeal be upheld, the Appellant would be prepared to accept all of the conditions suggested by the Planning Officer in Section 10 of the September 2020 Report. A list of these can be found in **Document C.3.**
- 7.2 The Appellant considers these conditions to be reasonable and relevant to the proposed development and sufficient to ameliorate the identified environmental and amenity effects so that they do not have “unacceptable” impacts.

8.0 Documents to be referred to in evidence

8.1 The Appellants will refer to the following documents:

1. Application Documents

- a) Planning Statement, application plans (as supplemented and amended – ref section 2.0 of this Statement); Environmental Statement (ES) and Non- Technical Summary (NTS) of ES: January 2016.

2. Key items of correspondence (see Appendix E)

3. Planning policy and related documents

- a) National Planning Policy Framework (2019)
- b) Planning Practice Guidance
- c) National Planning Policy for Waste (2014)
- d) Hertfordshire Minerals Local Plan Review 2002 – 2016 (adopted March 2007)
- e) Waste Core Strategy and Development Management Policies Document (adopted November 2012)
- f) Waste Site Allocations 2011 – 2026 (adopted July 2014)
- g) City and District of St Albans District Local Plan Review (adopted 1994, Reviewed 2020)
- h) Welwyn Hatfield District Plan (adopted 2005)
- i) Hatfield Aerodrome Supplementary Planning Guidance (November 1999)
- j) Emerging Minerals Local Plan – Proposed Submission (January 2019)
- k) Local Aggregate Assessments 2016 – 2020

4. Committee Reports

- a) Report to Development Control Committee Dated 25 January 2017
- b) Report to Development Control Committee Dated 18 December 2019
- c) Report to Development Control Committee Dated 24 September 2020

5. Responses from Consultees

6. Other documents, guidance, research and publications

- a) Relevant Green Belt cases including:
 - Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council** (2020)
 - Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government** (2013)
- b) Sustainability Appraisal Report, September 2010, by Land Use Consultants
- c) Sustainability Appraisal Report including Strategic Environmental Assessment December 2018 by Land Use Consultants
- d) All other relevant policy and guidance documents and monitoring reports
- e) Planning history for other quarries in Hertfordshire

9.0 Summary and Conclusions

- 9.1 In mineral planning policy terms, the development would meet an acknowledged need for aggregate (reference MLP Policy 3) in a way which is fully consistent with mineral planning policy objectives to minimise the effects of mineral extraction developments.
- 9.2 The Planning Officer's detailed and comprehensive analysis of the application set out in the January 2017 and September 2020 Reports acknowledge the need for the development in terms of the development plan allocation and the contribution which the development would make to regional supply.
- 9.3 Set in the context of this acknowledged need and following a detailed analysis of Green Belt, environmental and amenity effects, the Planning Officer confirms that there are no issues which would justify a refusal of the application.
- 9.4 If, as is assumed, the Appeal proceeds by means of Public Inquiry, evidence will be presented in support of the issues presented in this Statement.

Conclusion

- 9.5 The proposed development is not considered to be contrary to the development plan, in particular the policies listed in the refusal, and indeed it attracts important material support from the NPPF.
- 9.6 The Appellant respectfully requests that this Appeal be upheld.

APPENDIX A

Decision Notice

APPENDIX B

Original Application Documentation

Town and Country Planning Act 1990: Section 78 Appeal

Proposed New Quarry on land at Hatfield Aerodrome

Brett Aggregates Limited

Appendix B to the Statement of Case

Appeal Form Section Supporting Documents: Item 5 - List of plans, drawings and documents sent to the LPA as part of the application

B.0 Application Form

B.1 Planning Statement Text

Ref. No	Chapter Number	Title
B.1.1	Chapter 1	Introduction
B.1.2	Chapter 2	Site Description
B.1.3	Chapter 3	Development Description
B.1.4	Chapter 4	Planning Policy
B.1.5	Chapter 5	Need
B.1.6	Chapter 6	Conclusions

B.2 Planning Statement Drawings

Ref. No	Drawing Number	Title	Size
	Chapter 2	Site Description	
B.2.1	HQ 2/1	Site Location Plan	A3
B.2.2	HQ 2/2	Application Site Layout	A3
B.2.3	HQ 2/3	Topographic Survey	A3
	Chapter 3	Development Description	
B.2.4	HQ 3/1	Overall Phasing / General Layout	A3
B.2.5	HQ 3/2	Entrance Design	A3
B.2.6	HQ 3/3	Plant Site Masterplan	A3
B.2.7	HQ 3/4	Processing Plant Detail	A3
B.2.8	HQ 3/5	Plant Elevations	A3
B.2.9	HQ 3/6	Initial Site Preparation	A3
B.2.10	HQ 3/7	Phase A - Illustration	A3
B.2.11	HQ 3/8	Phase B - Illustration	A3
B.2.12	HQ 3/9	Phase C - Illustration	A3
B.2.13	HQ 3/10	Phase E - Illustration	A3
B.2.14	HQ 3/11	Illustrative Restoration Concept	A3
B.2.15	HQ 3/12	Illustrative Sections	A3

B.3 Planning Application Statement Appendices

Ref. No	Appendix Number	Title
B.3.1	3/1	Typical layout/elevations of a concrete batching plant

B.4 Environmental Statement Volume 2A (Text)

Ref. No	Chapter Number	Title
B.4.1	Chapter 1	Introduction
B.4.2	Chapter 2	Site Description
B.4.3	Chapter 3	Development Description
B.4.4	Chapter 4	Planning Policy
B.4.5	Chapter 5	Alternatives
B.4.6	Chapter 6	Water Environment
B.4.7	Chapter 7	Transport
B.4.8	Chapter 8	Landscape and Visual Impact
B.4.9	Chapter 9	Air Quality
B.4.10	Chapter 10	Noise
B.4.11	Chapter 11	Ecology
B.4.12	Chapter 12	Cultural Heritage
B.4.13	Chapter 13	Cumulative Impacts

B.5 Environmental Statement Volume 2A (Drawings)

Ref. No	Drawing Number	Drawing Title	Size
	Chapter 2	Site Description	
B.5.1	HQ 2/1	Site Location Plan	A3
B.5.2	HQ 2/2	Application Site Layout	A3
B.5.3	HQ 2/3	Topographic Survey	A3
	Chapter 3	Development Description	
B.5.4	HQ 3/1	Overall Phasing / General Layout	A3
B.5.5	HQ 3/2	Entrance Design	A3
B.5.6	HQ 3/3	Plant Site Masterplan	A3
B.5.7	HQ 3/4	Processing Plant Detail	A3
B.5.8	HQ 3/5	Plant Elevations	A3
B.5.9	HQ 3/6	Initial Site Preparation	A3
B.5.10	HQ 3/7	Phase A - Illustration	A3
B.5.11	HQ 3/8	Phase B - Illustration	A3
B.5.12	HQ 3/9	Phase C - Illustration	A3
B.5.13	HQ 3/10	Phase E - Illustration	A3
B.5.14	HQ 3/11	Illustrative Restoration Concept	A3

Ref. No	Drawing Number	Drawing Title	Size
B.5.15	HQ 3/12	Illustrative Sections	A3
	Chapter 6	Water	
B.5.16	HQ 6/1	Solid Geology	A3
B.5.17	HQ 6/2	Drift Geology	A3
B.5.18	HQ 6/3	Cross Section of Site Geology	A3
B.5.19	HQ 6/4	Regional Hydrology/Hydrogeology	A3
B.5.20	HQ 6/5	Local Hydrogeology and Hydrology	A3
B.5.21	HQ 6/6	Upper Mineral Horizon High Groundwater Contours (March 2014)	A3
B.5.22	HQ 6/7	Lower Mineral Horizon High Groundwater Contours (March 2014)	A3
	Chapter 8	Landscape and Visual	
B.5.23	HQ 8/1	Aerial Photography	A3
B.5.24	HQ 8/2	ZTV of Plant at 13.3m high	A3
B.5.25	HQ 8/3	ZTV of Phase A	A3
B.5.26	HQ 8/4	ZTV of Max Pit	A3
B.5.27	HQ 8/5	Viewpoint 1	A3
B.5.28	HQ 8/6	Viewpoint 2	A3
B.5.29	HQ 8/7	Viewpoint 3	A3
B.5.30	HQ 8/8	Viewpoint 4	A3
B.5.31	HQ 8/9	Viewpoint 5	A3
B.5.32	HQ 8/10	Viewpoint 6	A3
B.5.33	HQ 8/11	Viewpoint 7	A3
B.5.34	HQ 8/12	Viewpoint 8	A3
	Chapter 9	Air Quality	
B.5.35	HQ 9/1	Receptor Location	A3

B.6 Environmental Statement Volume 2B (Appendices)

Ref. No	Appendix	Description
	Chapter 1	Introduction
B.6.1	1/1	Request for Scoping Opinion
B.6.2	1/2	Scoping Opinion
	Chapter 3	Development Description
B.6.3	3/1	Typical layout/elevations of a concrete batching plant
	Chapter 6	Water
B.6.4	6/1	Borehole logs
B.6.5	6/2	Environment Agency Boreholes – Groundwater Elevations: Chalk
B.6.6	6/3	Groundwater Hydrographs
B.6.7	6/4	Land Quality Risk Assessment
B.6.8	6/5	Groundwater Quality
B.6.9	6/6	Water Framework Directive Compliance Assessment

Ref. No	Appendix	Description
B.6.10	6/7	Surface Water Levels
B.6.11	6/8	Surface Water Quality
B.6.12	6/9	Flood Risk Assessment & Surface Water Management Plan
B.6.13	6/10	Groundwater, Surface Water and Drain Management
	Chapter 7	Transport
B.6.14	7/1	ATC Data
B.6.15	7/2	Raw Incident Data
	Chapter 8	Landscape and Visual
B.6.16	8/1	Criteria for Assessing Sensitivity and Magnitude of Change
B.6.17	8/2	Landscape Planning Policies
B.6.18	8/3	Published Landscape Character Assessments
B.6.19	8/4	Method Statement for ZTVs
B.6.20	8/5	Individual Viewpoint Assessment
	Chapter 9	Air Quality
B.6.21	9/1	Assessment of Offsite Traffic Emissions
	Chapter 10	Noise
B.6.22	10/1	Glossary of Terminology
B.6.23	10/2	Full Survey Results
B.6.24	10/3	Noise Monitoring Locations
	Chapter 11	Ecology
B.6.25	11/1	Information on Local Wildlife Sites in vicinity of application site
B.6.26	11/2	Information on Ancient Woodlands in vicinity of application site
B.6.27	11/3	List of Vascular Plant Species Recorded by Bioscan 2014-15
B.6.28	11/4	Invertebrate Species List
B.6.29	11/5	Scientific Names of Bird Species Mentioned in Text
B.6.30	CA/1	Confidential Appendix – Badger Activity

B.7 Environmental Statement Volume 2C (Non-Technical Summary)

B.8 Statement of Community Involvement

APPENDIX C

Case Officer's Reports to Development Control Committee

APPENDIX D

Appeal Case Example

APPENDIX E

Determination Correspondence

Town and Country Planning Act 1990: Section 78 Appeal

Proposed New Quarry on land at Hatfield Aerodrome

Brett Aggregates Limited

Appendix E to the Statement of Case

Appeal Form Supporting Documents: Item 10 - List of relevant correspondence with the LPA

E.1 Correspondence

Ref. No	Date	Description
E.1.1	11-04-2016	Email enclosing notes of meeting
E.1.2		Meeting Notes
E.1.3	03-06-2016	Email regarding Woodland Trust comments
E.1.4	30-06-2016	Meeting Minutes and updated Restoration Scheme
E.1.5		Meeting Notes (email enclosure)
E.1.6		Updated Restoration Scheme (email enclosure)
E.1.7	07-07-2016	Letter to HCC re LLFA Objection
E.1.8	07-07-2016	Letter to EA regarding Objection
E.1.9	16-08-2016	Email to HCC enclosing copy of letter to EA (see 8.8.8)
E.1.10	09-09-2016	Email to HCC regarding noise
E.1.11	16-09-2016	Email to HCC regarding noise
E.1.12	16-09-2016	Email to HCC regarding EHO comments
E.1.13	16-09-2016	Email to HCC regarding noise
E.1.14	28-09-2016	Email to HCC regarding Transport
E.1.15	19-10-2016	Letter to HCC regarding Popefield Farm
E.1.16	03-11-2016	Letter to HCC regarding clarifications
E.1.17	09-11-2016	Email to HCC regarding drainage
E.1.18	24-11-2016	Email to HCC regarding Trees (enclosing overlay of access onto topographic Survey)
E.1.19		Drawing - overlay of access onto topographic Survey (email enclosure)
E.1.20	17-01-2017	Email to HCC regarding noise assessment
E.1.21	18-07-2019	Affinity Water answers to EARA
E.1.22	10-10-2019	Letter from EA to HCC conditional acceptance of GWMP
E.1.23	16-12-2019	Letter from Arlington regarding Deed of Variation
E.1.24	09-03-2020	Email from Brett to HCC clarification

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