

Hatfield Quarry Inquiry

Opening Comments on behalf of Mineral Planning Authority

Introduction and Overview

1. Hertfordshire County Council (“HCC”) accepts that, *if it can be done safely* in terms of the water environment, this mineral can be and needs to be extracted¹ subject of course to the operations being appropriately controlled and the impact on the green belt of the total proposals being justified.
2. The Committee set out four reasons for refusal. On HGV/highways detailed consideration has confirmed that there is no practical means of extracting this mineral without the HGV and highway impacts identified and this reason for refusal was therefore withdrawn. It is acknowledged that the development is phased and there is a rolling programme of extraction and restoration with each phase being worked for about 8 years. It is accepted that given the scale of the resource and the phased nature of the development the 32 years is an appropriate timescale. That reason for refusal has therefore been withdrawn.
3. Two main issues therefore remain from the Council’s perspective – first can the resource be safely extracted without adverse impacts on the groundwater and public water supply and second is the impact on the green belt justified and necessary.
4. As to the former, members were not satisfied that sufficient information had been provided to allow them to be satisfied on hydrogeological implications - they listened to the EA’s advice and representatives but were not satisfied with the assessment carried out and gaps remained. An independent expert was, thus, appointed to test all aspects of the case. She confirmed that there were gaps in the evidence base and the assessment but has worked to fill them. She has concluded that pumping from the LMH to control water levels for extraction as proposed in the 2016 Application is not acceptable. However, without such pumping (the 2021 Application) she and, on the basis of her advice, HCC are now satisfied that the mineral can be safely extracted subject to suitable conditions.

¹ The approximately 8m tonnes from this site is included in the existing and emerging Minerals Plan and this site is agreed to be needed to maintain the policy compliant landbank

5. As to the green belt ("GB"), it is acknowledged that necessary aspects of mineral extraction are appropriate development in the GB but there is a tipping point when the extent and nature of the activities, their duration, their impact on openness and the scale of development go beyond that. There may also be elements that are not appropriate development in the GB and require "very special circumstances" ("VSC") to justify the development.
6. On the 2016 Application, there is an unjustified concrete batching plant ("CBP") which is not appropriate development in the GB and for which no VSC case could be made. With pumping as included in the 2016 Application, the Appellant has not justified the need for the campaign method of construction and its consequential GB impacts (large stockpile, non-use of conveyors). The processing area is in an event excessively large. The tipping point is reached and VSC for those exceedances of what is necessary cannot be made out.
7. On the 2021 Application, the CBP is correctly removed. The Council has carefully reconsidered its position on the GB in detail in the light of the absence of pumping (and agreement on the water issue). The conditions necessary to ensure extraction is safe (namely no pumping) dictate the method of extraction and preclude a "non-campaign" method of working. That in turn has inevitable implications for what impact on the GB will necessarily arise from development here – for example it dictates the scale of the 3,000m² stockpile in the processing area.
8. In that context and given that the water conditions dictate the campaign method, the Council has tested thoroughly whether the absence of field conveyors means the tipping point is reached but has been satisfied that there would be no significant GB benefit overall from insisting on their provision². Its focus is thus on the processing area and its excessive size.
9. The Council will show that on the 2021 Application, even with the campaign method (which is agreed to be necessary given that pumping cannot be permitted), the area and layout of, and uses in, the processing area are excessive and the plan for it cannot be approved. It will be shown that there should be detailed control through conditions to ensure that the area is the minimum necessary for the screening, washing, sorting and crushing of aggregate with appropriate stockpiles and lagoons but no more. If such a condition is agreed or if a revised

² Given the campaign method of working it is accepted that the material would first have to be carried by lorry from the interburden level to the conveyor. At that point there need to be an additional unloading area, stockpile, hopper and loading machinery. The haul road would still be needed and the overall effect is likely to be neutral at best.

plan rejigging the processing area to the minimum necessary the Council's concerns on this aspect are likely to be resolved.

Hydrogeology

10. HCC refused permission because it was not persuaded by the material provided at that time that the quarrying would not impact water quality by virtue of impacts of the plume.
11. It therefore appointed a leading independent consultancy to review all the material, to identify any gaps and potential pathways to harm and to test those matters identified with the Appellant, the EA and Affinity whilst taking into account the concerns of Dr Rivett. Ms Lightfoot is a leading expert in the field and her Qualifications and Experience speaks for themselves³ and demonstrate that she is the right person to review all the material and independently advise HCC.
12. Because of the extent of public concern and because it was appropriate to do so on the facts, she has throughout applied a high standard to the evidence – before accepting that which is claimed she has tested the material so that she can be sure that the postulated route to harm cannot arise. She has undertaken a rigorous process over a significant period.
13. In her proof she raised issues on which she was not yet satisfied and identified gaps in the material available in the public domain which she considered necessary to test those matters. There followed a period of detailed discussions with experts for the Appellant (and others) during which there was detailed engagement on the issues she raised. She was provided further material and applied the same approach to it as above.
14. That exercise has led to the SOCG on Water. Given the concerns of councillors, officers and the wider team have tested each part of Ms Lightfoot's analysis in a number of meetings to ensure that: (1) all issues have been addressed; (2) she was applying a suitably rigorous and precautionary approach; and (3) her analysis had properly understood and taken into account points raised by experts for the local groups and those of lay members of the public.
15. HCC is grateful to the various experts who have engaged in this process. It has led to agreement that pumping will not be permitted across most of the site (and a draft condition

³ If any member of the public requires any further reassurance that she is eminently suitably qualified to advise the council and has requisite experience and independence a full copy of her CV is available on request.

encompassing what Ms Lightfoot requires has been set out for agreement). *If but only if that condition is imposed*, that process has now led to the position where the HCC has sufficient information to be satisfied with the safety of the proposals to the water environment and therefore this reason for refusal will not be pursued. The Inspector will of course test for himself whether he is so satisfied and Ms Lightfoot will be available throughout the relevant sessions. Absent such a condition (on the 2016 Application) the objection is sustained because the pumping creates a risk to the plume and a pathway to harm.

16. The upshot of the proposed condition is that there will very deliberately not be pumping from the LMH (except in phase G) in order to ensure that there are no impacts on the plume. Avoiding impacts on the plume has always been the Council's primary concern.

Green Belt

17. That conclusion on the water part of the case, has consequences for the GB case because, if there is to be no pumping, the water level in the LMH will not be controlled (as it was originally proposed to be).
18. The GB analysis (on the 2021 Application and on the 2016 Application if the condition is imposed) therefore has to reflect the combination of the accepted need to extract this mineral and the need to do so safely which dictates the absence of pumping as its essential starting point.
19. That has the following consequences:
 - a. the campaign method of working at times when the water table is below the relevant areas of the LMH is necessary;
 - b. therefore the 3000m² stockpile (at height of 5m) is required to ensure a year round supply;
 - c. to avoid the conveyors being flooded they would either have to be moved each time the water table rose or they would have to be placed at existing ground level only. In that case the extracted material would have to be loaded onto lorries and taken to the surface and if conveyors were to be provided they would have to be served by their own stockpile, hopper and loading machine with further impacts on GB. The haul road would be needed anyway including for inert fill material. Given all that, the overall GB position is agreed to be neutral as regards the use of conveyors.

20. The Council therefore focusses on the processing area. It is to be recalled that all of the site other than that actively used for mineral extraction is open access under clause 4.83 of the 2000 s.106 Agreement and thus the public will have access to and use of most of the phases including those closest to the processing areas for most of the 32 years.

21. As to the processing area:

- a. the concrete batching plant (“CBP”) is not a necessary or even usual part of a mineral extraction site like this and is inappropriate industrial development in the GB. No VSC case could (or appears to be) made for it and it must be omitted;
- b. the scale of the stockpiles of the screened material seems much greater than elsewhere and no justification for that scale has been put forward. It is not accepted that long term stockpiling and storage of finished product is appropriate development in the GB and no VSC case for them has been put forward; and
- c. the total size of the processing area appears to be significantly excessive on a like for like basis with other quarries with significant consequential impacts on the GB. There is no evidence that the size and impact on openness (spatial and visual) has been sought to be minimised. There are very large areas of developed area which apparently serve no particular purpose and are clearly excessive. Vehicles and stockpiles can spread in an uncontrolled fashion over GB land that is excessive. No VSC can, by definition, exist for such excessive areas and the impact on the openness of the GB from them cannot be justified.

22. If the pumping condition is not imposed, the Council retains its view that the Appellant has not justified the use of the campaign method or the consequent scale of the stockpiling and the absence of conveyors.

23. In any event, the CBP must be omitted (and a condition or s.106 obligation to that effect is required on the 2016 Application) and the scale of the processing area should be reduced (on both applications) to the minimum sensibly necessary to secure the extraction of the mineral. The onus is on the Appellant to justify the size of the processing area, to minimise its GB impact and to come up with an appropriate condition or plan to overcome the Council’s justified concerns in this regard.

Conclusion

24. If the hydrogeology pumping condition is imposed under the 2016 Application that reason for refusal is overcome. On the current 2016 and 2021 plans the Council retains its objection on GB grounds.
25. However, the issues have narrowed in the light of the need to prevent pumping. If that condition is imposed, the remaining issues from the Council's perspective will be the need to remove the CBP (on the 2016 Application) and the need to justify and limit the size of the processing area and its GB impact to that necessary to process the material extracted.
26. In those circumstances the Council will be satisfied by: (1) the post – decision progress on the water issue and the proposed condition; and (2) the knock on consequences for the manner of operation, the removal of the CBP and the limiting of the area of the processing plant that its remaining reasons for refusal can be overcome.

David Forsdick QC

16th November 2021