RE: LAND AT HATFIELD AERODROME

PLANNING APPEAL REFERENCE: APP/M1900/W/21/3278097

LPA Reference: 5/0394-16

COSTS APPLICATION

INTRODUCTION

1. This is an application for costs. It is made against Hertfordshire County Council ('HCC').
2. The application is for a full award of costs; alternatively a partial award of costs.
3. The application is made on the basis that the refusal of planning permission was unreasonable, and, on the basis that HCC's conduct of the appeal was unreasonable.
4. The application has been made in writing, before the Inquiry closed, in accordance with the NPPG and the PINS Guidance.

SUMMARY

5. In summary, HCC has been unreasonable in refusing planning permission for development which accords with the development plan and was, or could be

made, acceptable subject to appropriate planning conditions and obligations. HCC was correct to resolve to grant planning permission in 2017. There was no good reason to reverse that decision.

6. The development plan position, HCC's position before another important Inquiry, the positive and long term engagement with officers and consultees are all important context in assessing the volte face performed by members of the Development Control Committee in September 2020.

7. HCC has aggravated that position by giving notice that it did not pursue RfR 2 and 3 only via its planning proof of evidence.

8. HCC has further aggravated the position by unagreeing a suite of conditions during the course of the Inquiry and unagreeing the text of a s106 agreement which had been the subject of years of discussion and was expressly agreed.

9. The foregoing has resulted in expense which need not have been incurred, for which an award of costs is sought.

GUIDANCE

10. The Inspector will be very familiar with the costs guidance. In England, the aims are explained thus:[1]

---

[1] NPPG Paragraph: 028 Reference ID: 16-028-20140306

'Parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

The aim of the costs regime is to:

- encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case
- encourage LPAs to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,
- discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.'

11. The purpose of the costs regime was better articulated in the cancelled Circulars, for example[2] (emphasis added):

'*This discipline is not intended to deter people from exercising their statutory right of appeal*, but rather to ensure that other parties, notably the planning authority (and, indirectly, the local taxpayer) are *not put to unnecessary expense as a result of unreasonable use of the right of appeal*. Where complex or technical issues of legal precedent or procedure arise, the Secretary of State, in deciding whether behaviour is unreasonable, will take into account the extent to which an appellant obtained professional advice. Where the planning authority

---

[2] Annex 1, para 5 to DoE Circular 8/93 and Welsh Officer Circular 23/93 (Not in force) *Award of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceeding.* The former Welsh Office Circular 23/93 remained in force until 2017. It was in the same terms as the former Department of Environment Circular 8/93, revoked by Circular 03/2009, which was itself withdrawn on 7 March 2014 and replaced by the National Planning Practice Guidance (NPPG).

drew the appellant's attention to relevant facts (see paragraph 6 of Annex 3), the Secretary of State will also take that into account. The guidance is intended both to support planning authorities in the proper exercise of their statutory responsibilities and to reflect the principle that *the planning system should not prevent, inhibit or delay development which could reasonably be permitted*, in the light of the development plan, so far as it is material to the application, and of any other material considerations.'

12. This reflects the principle that the planning system should not prevent, inhibit or delay development which could reasonably be permitted. It is a concept which is carried forward and indeed strengthened in current national policy: see paras 11c and 11d of the Framework[3]. See further, paragraphs 38 and 39 of the Framework.

13. The Guidance addresses the type of behaviour which may give rise to a substantive award against a local planning authority, thus[4]:

"Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- failure to produce evidence to substantiate each reason for refusal on appeal
- vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

---

[3] https://gov.uk/guidance/national- planning-policy-framework.
[4] Paragraph: 049 Reference ID: 16-049-20140306; Revision date: 06 03 2014

- refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead
- acting contrary to, or not following, well-established case law.

.....

- refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
- not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.

(This list is not exhaustive.)"

SUBSTANTIVE AWARD

14. HCC resolved to grant planning permission in 2017, subject to completion of a s106 agreement. That resolution was on the basis of draft conditions which were materially the same as those which appeared in the September 2020 Officer's Report. There had been no material change in planning circumstances in the intervening period.

15. HCC concede that RfR 2 and 3 are untenable.

16. Miss Lightfoot agrees that RfR 4 may be addressed by planning condition.

17. Mr Tunnell agrees that RfR 1 is not well founded having regard to the particular circumstances of the proposal, that the proposal complies with the development plan and that planning permission should be granted, subject to appropriate conditions and planning obligations.

18. There is, therefore, no reason why permission should not have been granted. There may have been a dispute about conditions and obligations, but that is a wholly different question. Members rejected their officers' advice wholesale: Green Belt impacts; the scheme was too long in time; the traffic-related impacts were so bad that permission should be refused; the hydrogeology caused high levels of local concern and had not been shown to be acceptable.

19. No planning officer was prepared to have anything to do with those reasons for refusal.

20. Once Miss Lightfoot had got into the application materials, she was content. Her approach was a model of expert evidence. She read into the case at very short notice and identified four sensible questions. She discussed these with other specialists in the case and refined her view in accordance with her full understanding of the history of the application and the scientific detail.

21. In contrast, members of HCC's Development Control Committee made a peremptory decision contrary to the specialist advice of: their officers, the Environment Agency and the water company that bears much of the burden of managing with the bromate pollution. If members had residual concerns, they

should have asked for an independent review (i.e. appointed Miss Lightfoot to advise them) or they should have granted permission subject to conditions which addressed their concerns.

22. In the run up to the Inquiry, HCC has been trying to collate materials to defend the indefensible. HCC gives all the indications that it is lining itself up to say:

    a. The Appellant agreed to remove the concrete batching plant, and that makes all the difference to the Green Belt RfR;
    b. The Appellant has agreed to either a modest pumping regime in only one last Phase of the proposal or none at all and that, along with new information, makes all the difference because the campaign method of working is justified;
    c. More information on hydrogeology has resolved HCC's concerns;
    d. With these important changes, HCC is now able to support the proposal whereas previously it was reasonable to refuse

23. This case would be thoroughly disingenuous and should not properly be run. It would be inaccurate and HCC would know that it would be inaccurate.

24. As to (a), this would be a quite unreasonable response, in context. The Council had resolved to grant consent with the concrete batching plant. Nobody had said to the appellant subsequently 'The batching plant is a real problem and the Council is minded to refuse permission if you maintain that element of the proposal'. Ten meetings took place at which that could have been said. It was not

said. It was not said at the nine meetings which took place prior to the resolution to grant.

25. Moreover, HCC appeared at a long and difficult inquiry at which it advised the Inspector and the Secretary of State that it was going to grant permission for the scheme which included the concrete batching plant, and did so throughout the long sitting-period of that inquiry during 2018.

26. In any event, if the concrete batching plant achieved such significance in the minds of members, the proper course was to either: (i) to defer to allow the applicant to consider the position, or; (ii) issue a split decision. But members were intent upon refusal, as the reasons demonstrate.

27. As to (b), the key point to note is that work had continued between the date of the application and the date of the decision. The joint understanding as between the applicant's specialist advisors, consultees and officers had evolved, quite properly, through discussion, the data acquired and a process of assimilating that information. They knew what they were doing. They knew that either insignificant or no pumping sufficed. A condition to that effect was all that was required. Refusal was unreasonable.

28. No additional information has been needed to resolve HCC's concerns. The existing information was explained to address the four issues which Miss Lightfoot raised.

OTHER MATTERS

29. RfR 2 and 3 have been withdrawn. They were unreasonable reasons for refusal. Counsel for HCC described them during the Inquiry as 'unarguable'. He was correct. They are untenable as reasons to turn away a site which has been preferred and supported to meet the acknowledged need in the County. They are in fact irrational because the matters relied upon in RfR 2 and 3 are the direct consequence of supporting such development at this location via the development plan. The Council cannot rationally adopt contradictory positions.

30. The RfR were withdrawn via the evidence of Mr Tunnell and not before. In consequence, the Appellant had to address those issues. It is no answer to say that the Rule 6 parties were running similarly unreasonable cases, not least because it is via an unreasonable refusal that the whole appeal process is opened up. It is trite that there is no third party right of appeal against grant of permission.

31. Further, it is a matter of fact that HCC expressly agreed planning conditions via the SoCG, including as to groundwater. When hydrogeologists met to discuss the approach, they were told that the Council would only agree to conditions which included trigger values. This was a completely new position, adopted mid-Inquiry. The Appellant relies on the Note on groundwater conditions.

32. Still further, the s106 agreement was expressly agreed between solicitors on 7th October. It was then unagreed mid-Inquiry. Worse, this was after announcing to the Inquiry that the landowner was to be enforced against in proceedings in the High Court. This has severely hampered the process of engrossing what was an

agreed s106 agreement. Having had 21 years to secure the results of its agreement with the landowner, HCC has chosen to advertise this enforcement step during this Inquiry when it knew that the s106 which is required for this scheme had not been signed. That is unreasonable and has increased costs without good reason.

33. The Appellant seeks an award of costs for these additional reasons including partial awards.

34. The Appellant reserves its position on the question of costs arising from the failure to notify by letter those who had made representations on the application or appeal. It is not clear yet whether the Appellant will incur unnecessary costs in that regard.

35. The Appellant further reserves its position to update and expand on the above matters.

RICHARD KIMBLIN QC

22nd November 2021

RE: LAND AT HATFIELD

AERODROME

PLANNING APPEAL REFERENCE:

APP/M1900/W/21/3278097

LPA Reference: 5/0394-16

COSTS APPLICATION

Andrea Bruce
Partner
Knights plc
The Brampton
Newcastle-under-Lyme
Staffordshire
ST5 0QW

Richard Kimblin QC

No5 BARRISTERS CHAMBERS

London • Birmingham • Bristol • Leicester
Tel: 0845 210 5555

RE: LAND AT HATFIELD AERODROME
PLANNING APPEAL REFERENCE: APP/M1900/W/21/3278097

LPA Reference: 5/0394-16

APPELLANT'S NOTE ON GROUNDWATER CONDITIONS

Introduction

1. This Note has been prepared by the Appellant's advocate. It follows after the hearing of the evidence on hydrogeology which took place on Wednesday 17th November. The parties then undertook to meet on a without prejudice basis to discuss planning conditions on the groundwater topic. The Appellant's advocate undertook to provide a framework of conditions which sought to capture the points which arose from the Environment Agency's Statement of Case, the environmental information and the hearing. That framework was circulated to HCC, the Agency and Affinity Water on Thursday 18th November.

2. On Friday 19th November, hydrogeologists and planning officers met virtually for a discussion. The result of that meeting was reported back to the Appellant in these terms:

> *"HCC (on advice from their QC) were of the strong opinion that the Conditions had to be able to stop excavation on the basis of a bromate trigger concentration"*

3. It would have been convenient for this position to be made clear rather earlier. It is to be recalled:

   i. The development plan has anticipated both mineral extraction and the fact of the bromate pollution for over twenty years (see the SPG for Hatfield Aerodrome);

ii. The Mineral Planning Authority's own development plan, adopted in 2007, contains specific reference to the bromate plume;

iii. The application proposals have been the subject of discussion between the Mineral Planning Authority and the Appellant for a period of six years, and on at least 19 different occasions the parties have met and on many of those occasions have discussed the approach to the bromate pollution;

iv. The Environment Agency and Affinity Water have been fully informed and actively and constructively involved;

v. There are two Environmental Statements before the Inquiry;

vi. Each Environmental Statement contains a detailed discussion of the hydrogeological issues, the scope of which is not now challenged by any of: HCC, the Agency or Affinity Water;

vii. Each Environmental Statement includes a Groundwater and Water Monitoring and Management Plan (GWMMP), the most recent version of which has been extensively consulted upon and is not the subject of any criticism in the evidence of HCC, the Agency or Affinity Water;

viii. The Planning Committee received an Officer's Report in September 2020 which contained the conditions which officers considered to satisfactorily address the hydrogeological issues and to fully address the issues raised by specialist consultees;

ix. There is a Statement of Common Ground dated 22 October between the Appellant and HCC which appends agreed conditions. Those conditions have in fact been the agreed without prejudice position for months.

x. There is a Statement of Common Ground dated 5th November which agrees some modified conditions as originally proposed by the Agency.

4. **Nowhere** in the material referred to in the ten points above has it been suggested that only a planning condition which is based on trigger levels would suffice. Indeed, during six years of discussion, five years of environmental assessment, two officer reports in support of the grant of planning permission, 19 meetings and a Statement of Common Ground which agreed draft conditions, nobody has suggested any trigger level, still less have they sought to justify it by reference to a reasoned hydrogeological or geochemical evidence base. The point emerged in the middle of the Inquiry, at 3pm on Friday 19th

November. That position, and that conduct on the part of HCC, **is unreasonable**, and very clearly so.

Next Steps

5. It is now necessary to consider how to proceed from this point, in the short amount of time available before the close of the Inquiry. Three steps are necessary, namely to:

    [1]. summarise the current position with respect to bromate in the LMH;
    [2]. summarise what the Agency want to be achieved by planning conditions;
    [3]. draft planning conditions which achieve the Agency's stated objectives in a manner which satisfies the Newbury tests – see §57 of the Framework – necessary to make the development acceptable in planning terms; directly related to the development, and fairly and reasonably related in scale and kind. They are to be kept to a minimum, be enforceable, precise and reasonable in all other respects (§56 of the Framework).

6. As to [1], the current position is summarised in the 2021 Environmental Statement as sporadic, trace level detections in several LMH monitoring wells; the most consistent has been from BH104, but none exceeded the drinking water standard[1]. Drawing HQ 6/10 is a helpful plan of the LMH groundwater contours with the monitoring wells marked with their respective bromate concentrations in April 2021. Plan PR-PE6 is appended to Mr Rowlands' Proof of Evidence. It is essentially the same as drawing HQ 6/10[2].

7. The detection limit of the analytical method for bromate is stated as 0.5 μgl^{-1} Where the boreholes in the LMH are marked with 'ND', bromate was not detected, i.e. bromate was either absent or present at concentrations below 0.5 μgl^{-1}. On plan HQ 6/10, bromate was only detected at BH104 from amongst the boreholes within the red line area, at 0.7 μgl^{-1} – marginally above the detection limit. Higher concentrations were observed during the monitoring which has taken place since 2014.

[1] See §6.73 at Page 6-16
[2] Some care is needed – HQ 6/10 shows the April 2021 data for bromate in the LMH. I have checked this against the tables in the ES. PR – PE6 shows data for wells screened in the Chalk.

8. As to [2], the Agency's main objective is, obviously, to avoid exacerbation of the existing groundwater pollution. To achieve this objective, the Agency highlight, equally obviously, that it is necessary to survey the baseline groundwater quality before any Phase is commenced, to have an up to date management plan for that Phase and to monitor groundwater quality and the flow regime during the working. It is plain that the key question is whether or not there is evidence that the plume is migrating to the south and west. It is change against the baseline which needs to be monitored.

9. The plume has been studied at varying degrees of intensity over a period in excess of twenty years. The quarry would operate for about thirty years.

10. To include meaningful trigger levels within a suite of conditions is challenging for a host of reasons which are evident to anybody who has tried to draft such conditions. So far, nobody has. The approach which was set out last week has been rejected for no other reason than the condition must include trigger levels. It has not been explained why a requirement to furnish the planning authority with data and recommendations is not the optimal approach. No counter proposal has been forthcoming, still less any reasoning to explain what triggers are intended to do.

11. The drafting of planning conditions is the responsibility of the planning authority, not any other party. In the absence of any positive or constructive approach in that regard, the Appellant is forced to provide further, without prejudice drafting, in the hope that it can get the planning authority to the position where it knows what its without prejudice position might be.

Second Proposal

12. The second proposal is the same as the first proposal for conditions [1], [2] and [3], save where indicated in condition [2]. Conditions [4] and [5] are new.

13. Two trigger levels are included. They are $2\mu gl^{-1}$ and $5\mu gl^{-1}$. These values were raised by the Environment Agency on Friday and so these have been adopted.

14. The Environmental Statement notes that at low concentrations (and 2µgl^{-1} is a very, very low concentration) the detection of bromate is sporadic and variable. At these concentrations, it is important to know what the field variability is (what happens if you take, say, five samples on the same day), what the laboratory variation is (what happens if you analyse the same sample, say, ten times) and to have some data for field blanks (not samples from the wells at all, but sample bottles which go on the same journey as the actual samples).

15. Moreover, it would be essential to have some time-series data if there were any detections at or around 2µgl^{-1}. That would improve confidence considerably.

16. There are many ways to assess and plan for action against environmental monitoring data, particularly in the water environment. Discharge consents are traditionally set at around the 90th percentile. It would be a matter for consideration to set a confidence level.

17. In short, the question of what comprises an exceedance of a trigger needs to be set out in the GWMMP.

18. In the above, context, the second proposal is:

> [1] Prior to the commencement of development, the following shall be submitted to and approved in writing by the mineral planning authority:
> Details of the construction and water management during construction of infiltration lagoons;
> Details of the UML back-drain upon restoration;
> [*any other details of the development which are required from a surface or groundwater point of view]*
>
> The development shall be undertaken in accordance with the approved details.

[2] Prior to the commencement of development, a Groundwater and Water Monitoring and Management Plan (GWMMP) shall be submitted to and approved in writing by the mineral planning authority. The GWMMP shall include:

The locations of surface and groundwater monitoring, the type and nature of monitoring and sampling to be undertaken and the scope of laboratory analysis to be undertaken on the samples obtained;

The timetable for the submission of monitoring reports;

Provisions which are specific to Phase A

Details of the lagoons

A method to establish the statistical confidence required for any borehole monitoring results which are relied upon as trigger levels;

[*anything other details which it is important to expressly require];*

~~A statement of the suitability of the GWMMP for the purpose of establishing whether the bromate plume is present within the extraction area in the LMH and whether the mineral extraction is affecting the extent of the bromate plume.~~

The water and groundwater sampling, analysis and reporting of the results shall be in accordance with the approved GWMMP. The development shall be undertaken in accordance with the approved GWMMP.

[3] Prior to the extraction of minerals from the LMH in each of Phases B, C, D, E, F and G, a revised GWMMP shall be submitted to and approved in writing by the mineral planning authority.

[4] In the event that monitoring results indicate that bromate concentrations in the LMH extraction area exceed the trigger level of $2\mu gl^{-1}$ at the confidence level in

the approved GWMMP, then an action plan and programme shall be submitted for approval of the mineral planning authority. The action plan shall be implemented as approved.

[5] In the event that monitoring results indicate that bromate concentrations in the LMH extraction area exceed the trigger level of $5\mu gl^{-1}$ at the confidence level in the approved GWMMP, then a cessation plan for the timescale and extent of cessation of mineral working in the LMH and for reinstatement works shall be submitted for the approval of the mineral planning authority. The cessation plan shall be implemented as approved.

ANNEX 1 – First Draft Conditions Circulated by the Appellant

[1] Prior to the commencement of development, the following shall be submitted to and approved in writing by the mineral planning authority:

Details of the construction and water management during construction of infiltration lagoons;

Details of the UML back-drain upon restoration;

[*any other details of the development which are required from a surface or groundwater point of view]*

The development shall be undertaken in accordance with the approved details.

[2] Prior to the commencement of development, a Groundwater and Water Monitoring and Management Plan (GWMMP) shall be submitted to and approved in writing by the mineral planning authority. The GWMMP shall include:

The locations of surface and groundwater monitoring, the type and nature of monitoring and sampling to be undertaken and the scope of laboratory analysis to be undertaken on the samples obtained;

The timetable for the submission of monitoring reports;

[*anything other details which it is important to expressly require]*

A statement of the suitability of the GWMMP for the purpose of establishing whether the bromate plume is present within the extraction area in the LMH and whether the mineral extraction is affecting the extent of the bromate plume.

The water and groundwater sampling, analysis and reporting of the results shall be in accordance with the approved GWMMP. The development shall be undertaken in accordance with the approved GWMMP.

[3] Prior to the extraction of minerals from the LMH in each of Phases B, C, D, E, F and G, a revised GWMMP shall be submitted to and approved in writing by the mineral planning authority.

[4] Each monitoring report which is submitted under the GWMMP shall include, for the approval of the mineral planning authority:

an assessment of whether the bromate plume is present within the extraction area in the LMH;
and assessment of whether the mineral extraction is affecting the extent of the bromate plume;
recommendations, which shall include timescales.

The approved recommendations, including any variation or addition made by the planning authority, shall be implemented in accordance with the approved timescale.

[Pumping/No pumping condition TBC]

ANNEX 2 – EXTRACT FROM ENVIRONMENT AGENCY STATEMENT OF CASE

The 'conditions' set out below have appeared in correspondence from the Agency and appear at the end of its Statement of Case to this Inquiry.

Condition 1

Each phase of the development hereby permitted shall not commence until a Water Monitoring & Management Plan relating to that phase has been submitted to, and approved in writing by, the Mineral Planning Authority. Reports as specified in the approved Water Monitoring & Management Plan, including details of any necessary contingency action arising from the monitoring, shall be submitted at the times identified to, and approved in writing by, the Mineral Planning Authority.

Each Water Monitoring and Management Plan shall refine the Groundwater and Water Management Plan Final (Version 5) prepared for: Brett Aggregates Limited by SLR Consulting and shall include:

Details of construction and water management during construction of the two infiltration lagoons;

Clarification of the restored site discharge point for the UML back-drain;

A long-term groundwater monitoring plan to continue during and post the operational phase to include;

Monitoring and reporting programs;

Location of monitoring points including additional monitoring boreholes particularly in the vicinity of the infiltration lagoons;

Analytical suites and limits of detection;

Groundwater level monitoring;

Details of contingency actions in the event of impact;

A mechanism for periodic review; and

A timetable of monitoring and submission of reports to the Mineral Planning Authority.

Reason

To protect controlled waters and to not exacerbate the existing groundwater pollution.

 ensuring no deleterious impact to groundwater quality, in accordance with Policy 16 (Soil, Air and Water) of the Hertfordshire Waste Core Strategy 2012; To prevent development that would have an unacceptable risk or adversely affect water pollution; To minimise the risks associated the flow and quantity of surface and groundwater and migration of contamination from the site, in accordance with paragraph 143 of the NPPF.

Condition 2

The two infiltration lagoons and back drain shall be constructed in accordance with the Groundwater and Water Management Plan Final (Version 5) prepared for Brett Aggregates Limited by SLR Consulting as refined by the Water and Monitoring Management plan approved under condition 1 above prior to the commencement of mineral extraction.

Reason

To protect controlled waters and to not exacerbate the existing groundwater pollution.

Condition 3

Groundwater monitoring and the management of water shall be conducted by the Mineral Operator in accordance with the Groundwater Management Plan as refined by the approved Water and Monitoring Management Plan, prepared for Brett Aggregates Limited by SLR Consulting for the lifetime of the development.

Reason

To protect controlled waters and to not exacerbate the existing groundwater pollution.

ANNEX 3 – Conditions from the SoCG on hydrogeology (5th Nov 2021)

Condition 1

8.3 Each phase of the development hereby permitted shall not commence until a Water Monitoring & Management Plan relating to that phase has been submitted to, and approved in writing by, the Mineral Planning Authority. Reports as specified in the approved Water Monitoring & Management Plan, including details of any necessary contingency action arising from the monitoring, shall be submitted at the times identified to, and approved in writing by, the Mineral Planning Authority.

8.4 Each Water Monitoring and Management Plan shall refine the Groundwater and Water Management Plan Final (Version 5) prepared for: Brett Aggregates Limited by SLR Consulting and shall include:

details of construction and water management during construction of the two infiltration lagoons;

clarification of the restored site discharge point for the UML back-drain;
• a long-term groundwater monitoring plan to continue during and post the operational phase to include:

monitoring and reporting programmes;

location of monitoring points including additional monitoring boreholes particularly in the vicinity of the infiltration lagoons;

analytical suites and limits of detection;

groundwater level monitoring;

details of contingency actions in the event of impact;

a mechanism for periodic review; and

a timetable of monitoring and submission of reports to the Mineral Planning

Authority.

Reason to protect controlled waters and to not exacerbate the existing groundwater pollution; ensuring no deleterious impact to groundwater quality, in accordance with Policy 16 (Soil, Air and Water) of the Hertfordshire Waste Core Strategy 2012; to prevent development that would have an unacceptable risk or adversely affect water pollution; and to minimise the risks associated the flow and quantity of surface and groundwater and migration of contamination from the site, in accordance with paragraph 143 of the NPPF.

Condition 2

8.5 The two infiltration lagoons and back drain shall be constructed in accordance with the Groundwater and Water Management Plan Final (Version 5) prepared for Brett

Aggregates Limited by SLR Consulting as refined by the Water and Monitoring Management plan approved under condition 1 above prior to the commencement of mineral extraction.

Reason To protect controlled waters and to not exacerbate the existing groundwater pollution.

Condition 3

8.7 Groundwater monitoring and the management of water shall be conducted by the Mineral Operator in accordance with the Groundwater Management Plan as refined by the approved Water and Monitoring Management Plan, prepared for Brett Aggregates Limited by SLR Consulting for the lifetime of the development.

Reason To protect controlled waters and to not exacerbate the existing groundwater pollution.