



## Appeal Decisions

Hearing held on 2-3 September 2014

Site visit made on 4 September 2014

**by Chris Hoult BA(Hons) BPhil MRTPI MIQ**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 October 2014**

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### **Appeal Ref: APP/M1900/A/14/2220101 (Appeal A)**

#### **Land at Broad Green, Lower Hatfield Road, Hertford, SG13 8LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Water Hall (England) Limited against the decision of Hertfordshire County Council.
  - The application Ref 3/0705-13 (CM0093C), dated 14 February 2013, was refused by notice dated 27 March 2014.
  - The development proposed is the extension of workings to allow mineral extraction and infilling with naturally occurring material derived from the Water Hall Complex and restoration to agriculture, including an internal haul road and ancillary activities at Broad Green.
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### **Appeal Ref: APP/M1900/A/14/2220111 (Appeal B)**

#### **Water Hall Quarry Complex, Lower Hatfield Road, Hertford, SG13 8LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the grant of planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Water Hall (England) Limited against the decision of Hertfordshire County Council.
  - The application Ref 3/2279-13 (CM0093C), dated 4 December 2013, was granted planning permission by notice dated 28 March 2014.
  - The application sought planning permission for the variation of condition 34 and consequential changes to conditions 33, 43, 47, 48 and 49 of planning permission 3/0842-04 to increase levels of Southfield Wood Landfill, Water Hall Quarry, Lower Hatfield Road, Hertford, SG13 8LF, without complying with conditions attached to planning permission Ref 3/1310-09 dated 1 October 2010.
  - The conditions in dispute were Nos. 4, 25 and 54 of that planning permission which were re-ordered to form Nos. 3, 28 and 57 of planning permission ref. 3/2279-13 (CM0093C) granted by the Council. Their wording and the reasons given for the conditions are set out in the attached Annex 1.
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### **Appeal Ref: APP/M1900/A/14/2220112 (Appeal C)**

#### **Water Hall Quarry Complex, Lower Hatfield Road, Hertford, SG13 8LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Water Hall (England) Limited against the decision of Hertfordshire County Council.
- The application Ref 3/2278-13 (CM0093C), dated 4 December 2013, was refused by

notice dated 28 March 2014.

- The application sought planning permission for the variation of conditions 17 and 23 of planning permission 3/1439-97 to enable an existing materials recovery facility (MRF) to be linked to Bunkers Hill Quarry at Water Hall Quarry, Lower Hatfield Road, Hertford, SG13 8LF, without complying with a condition attached to planning permission Ref 3/1311-08, dated 7 October 2008.
  - The condition in dispute is No. 2 which states that: "The development hereby permitted shall cease by 30 November 2014 or upon the cessation of infilling and restoration (excluding aftercare) of Bunkers Hill Quarry as permitted under planning permission 3/0842-04 dated 18 July 2008, whichever is the earlier. All plant, buildings, structures and equipment used in connection with this use shall be removed before the end of a further 12 months from this date."
  - The reason given for the condition is: "To ensure that an orderly programme of operations and restoration is carried out and to reflect the terms of planning permission 3/0842-04."
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## **Decisions**

### **Appeal Ref. APP/M1900/A/14/2220101 (Appeal A)**

1. The appeal is dismissed.

### **Appeal Ref. APP/M1900/A/14/2220111 (Appeal B)**

2. The appeal is allowed in part and planning permission is granted for the variation of condition 34 and consequential changes to conditions 33, 43, 47, 48 and 49 of planning permission 3/0842-04 to increase levels of Southfield Wood Landfill at the Water Hall Quarry Complex, Lower Hatfield Road, Hertford, SG13 8LF in accordance with the application Ref 3/2279-13 (CM0093C) dated 4 December 2013, without compliance with condition numbers 3, 28 and 57 imposed on planning permission Ref 3/2279-13 (CM0093C) dated 28 March 2014 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and to new conditions as set out in Annex 2 to this decision.

### **Appeal Ref. APP/M1900/A/14/2220112 (Appeal C)**

3. The appeal is allowed and planning permission is granted for the variation of conditions 17 and 23 of planning permission 3/1439-97 to enable an existing materials recovery facility (MRF) to be linked to Bunkers Hill Quarry at the Water Hall Quarry Complex, Lower Hatfield Road, Hertford, SG13 8LF in accordance with the application Ref 3/2278-13 (CM0093C) dated 4 December 2013, without compliance with condition numbers 2 and 7 previously imposed on planning permission Ref 3/1311-08, dated 7 October 2008, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and to new conditions as set out in Annex 3 to this decision.

## **Procedural matters**

4. The hearing sat for two days at County Hall, Hertford and was then adjourned for an extended site visit of the Water Hall Complex of workings and the site of the proposed extension at Broad Green subject of Appeal A. This included a visit to the University of Hertfordshire's Bayfordbury Observatory, where further written and oral representations from the University were made regarding the appellants' Dust Management Plan. The appellants were able to

respond to these representations and I closed the hearing at the conclusion of this part of the visit. I take account of these representations and the subsequent discussions on them in my decision.

5. In the lead-in to the hearing, I received a representation from the Bayford Action Group (BAG) in relation to information submitted in support of the application late in the process, relating to noise impacts. This consisted of a document entitled "Broad Green Operating Method" and an accompanying summary of it together with a plan showing in detail proposed working and additional noise mitigation measures. The group said that it had been unaware of its existence and now sought to express concerns about it. At the hearing, I accepted the representation and the proposed working method was discussed in detail. I am satisfied that the group's concerns have been addressed and I take it and the subsequent discussions into account in my decision.
6. The application subject of Appeal B sought an extension to various timescales for the completion of operations at the quarry complex which were the subject of conditions 4, 25 and 54 of the 2010 planning permission. The Council granted planning permission subject to varied conditions but the timescales imposed were not what the appellant had sought. Moreover, the ordering of conditions attached to the planning permission it granted was different from that of the original permission. The deadline for the completion of operations at Water Hall was the subject of condition 3, that for Southfield Wood was the subject of condition 28 and that for Bunkers Hill Quarry was the subject of condition 57. The appeal was therefore in respect of those attached conditions (nos. 3, 28 and 57) to the planning permission granted by the Council.
7. The somewhat unusual circumstances of this appeal are reflected in the banner heading for it and Annex 1 sets out the numbering and wording of the conditions subject of the appeal (as opposed to the initial application).
8. The appeal site is in the Metropolitan Green Belt. The recent High Court judgment in *Redhill Aerodrome Ltd v SSCLG, Tandridge District Council and Reigate and Banstead Borough Council* [2014] EWHC 2476 (Admin) is of relevance. It concerns the balancing exercise to undertake where a proposal is found to be inappropriate development in the Green Belt and gives rise to harm other than harm to the Green Belt. I raised this case at the hearing and the comments of the parties on it were also sought. I take the judgment and its implications into account in reaching my decision.

## **Appeal A**

### **Background and main issues**

#### *Green Belt considerations*

9. The Council cites two reasons for refusal. These relate to need and, in so far as plant would be retained to process mineral beyond the approved timescale for restoration of the existing workings, its inappropriateness as development in the Green Belt. Drawing from paragraph 90 of the National Planning Policy Framework (NPPF), it says that that would conflict with the purposes of including land in the Green Belt and harm its openness.
10. At the hearing, I posited the view that the plant would be retained only in so far as it would be necessary to process minerals, from working at Broad Green, and restoration materials necessary to reinstate the existing landform. It is not

part of the appellants' case that the plant should be retained in its own right beyond the timescales for restoration of existing workings at Water Hall, irrespective of whether or not they include the appeal site.

11. Paragraph 90 of the NPPF regards certain forms of development as not inappropriate in the Green Belt. These include mineral extraction. There is no qualification in that paragraph as to whether, under that heading, that should extend to mineral processing and to the use of plant and equipment to bring about restoration. However, paragraph 144 of the NPPF requires authorities to give great weight to the economic benefits of mineral extraction and to provide for restoration and aftercare to be carried out to high environmental standards. For minerals for use as aggregates, those benefits would be typically realised through secondary processing. In the case of the quarry complex, it is necessary to make soils from the processing of incoming inert construction and demolition waste in order to achieve high-quality restoration.
12. Accordingly, I question whether it can reasonably be argued that any retention of the plant would be inappropriate development in the Green Belt in circumstances where the appellants are not seeking to retain it beyond the timescale necessary to work and restore the remaining parts of the complex. It was not the Council's case (aside from in relation to the particular circumstances of the MRF, which I deal with in dealing with Appeal C) that processing plant at the quarry complex is not necessary to produce a saleable product or achieve a high standard of restoration. The dispute between it and the appellants relates to the acceptability of working at Broad Green and appropriate timescales for the restoration of the remaining parts of the complex, with or without Broad Green.
13. I therefore consider it reasonable to conclude that any retention of the plant required to achieve these outcomes would, in so far as it would be a necessary adjunct to primary extraction, fall under the heading of "mineral extraction" for purposes of paragraph 90 of the NPPF. Given that it would be necessary component of the process, it would not conflict with the purposes of including land within the Green Belt and whether it would preserve openness would not be an issue. Given this, I conclude that, as proposed to be retained, it would not represent inappropriate development in the Green Belt or harm its openness. No harm to the Green Belt on either account would occur. It is not therefore necessary to go on to carry out a balancing exercise in line with the *Redhill Aerodrome* judgment.

#### *Main issues*

14. That leaves need as the main issue in dispute between the parties. In addition, it is clear from representations made in respect of the appeal and to the Council by local residents that there are major concerns regarding noise and dust impacts, given the proximity of workings to houses at Broad Green. The University of Hertfordshire has separately raised objection in respect of potentially damaging impacts from fugitive dust from operations on research equipment operated at the observatory. Finally, at the hearing, I was left in little doubt from representations made orally from objectors that cumulative impacts from continuing working at the complex as a whole (extending over the last 50 years or so) are a matter of great local concern. Consolidating permissions granted in 2010 envisaged the completion of workings at Bunkers Hill in November 2014 and at the overall complex in February 2017.

15. Accordingly, I consider that the main issues are:

- (a) the effect of the proposal on the living conditions of neighbouring residents, having regard to noise and dust;
- (b) the effect of the proposal on the operation of research equipment at Bayfordbury Observatory, having regard to dust;
- (c) the cumulative effects of the proposal, taken together with previous working at the quarry complex; and
- (d) whether any harm would be outweighed by the need for the mineral, having regard to local landbanks and evidence of local demand.

## **Reasons**

### *Living conditions – noise*

16. The appeal site comprises a single parcel of open, undulating land to the north and north-west of a row of houses which forms the small hamlet of Broad Green. It slopes from south to north, with a slight dip in its profile towards its western boundary. Its eastern boundary abuts Bayford Lane while its southern boundary is contiguous with the rear garden to no. 1 Broad Green and land to its west used as paddocks. However, as a working site, it would be configured such that the outer slope to bunds which would run along its southern and eastern boundaries would be no closer than 75m to properties, taking as the point of measurement the rear corner of the northern elevation to no.1.
17. The Operating Method plan shows that the site would be worked in a roughly clockwise direction, initially in its northern part progressing eastwards before turning to advance westwards in its southern part. The haul road would be aligned east-west centrally across the site, running to and along its western boundary before crossing Bunkers Hill quarry, along the lower slopes of its restored northern/eastern flank. Sand and gravel would be transported to the main plant site, to the north of the B158 Lower Hatfield Road, for washing and processing, via this route and the established crossing point across the main road. The appellants explained at the hearing that an initial cut would be taken and overburden initially stockpiled before working proceeds, then backfilling with overburden as it progresses.
18. There is a need to balance overburden removed with reinstated levels as working progresses, in order to avoid the need to stockpile overburden on a constrained site more than the minimum necessary. The appellants explained that working and restoration would not therefore be phased. Progressive restoration, fully reinstating levels and then re-spreading soils as working progresses, would not occur. Much of the site would remain open throughout its working life. Working across the southern part of the site would bring it closest to houses. The Operating Method plan shows that, within 150m of properties, additional noise mitigation may be necessary depending on the outcome of monitoring. This would take the form either of works to establish a 5m inner slope to the bund on the southern boundary or the physical raising of the height of the bund to 5m from 3m.
19. I found the appellants' initial noise assessment difficult to follow and its conclusions unclear. The Council reviewed it but its conclusions, that the site would be noisier than had been anticipated, were based on an assumption of

- larger items of plant than would be deployed. A further review was carried out by LF Acoustics on behalf of the appellants, who were represented at the hearing. They were able to revise their assessment of likely noise levels in response to third-party concerns regarding the use of a bulldozer rather than articulated dump truck to carry out final profiling of the restored landform. This shows that, with mitigation in place, likely noise levels would be within a limit set at 10dB(A) above background levels, a commonly-accepted threshold above which complaints regarding noise would be likely to arise.
20. Technical Guidance on minerals formerly attached to the NPPF has now been replaced by the Government's Planning Practice Guidance (PPG) published in March 2014. It seeks generally to require a limit to site-attributable noise of 10dB(A) above background levels within an absolute limit 55dB(A)Leq 1hr (free field). The appellant has demonstrated that this could be achieved but, for working within 150m of properties, it may require more intrusively noisy operations to be carried out to raise soil bunds, in addition to those involved in their initial formation, some way into the site's working life. The PPG allows for such operations to be carried out over a period of 8 weeks in a year and I have no reason to believe, within the appellants' currently-projected three-year timescale for working, that such a limit could not be adhered to.
  21. However, the noise figures tell only part of the story. Broad Green is in a quiet rural area, with low daytime background noise levels. While averaged-out noise levels would fall within accepted limits, noise from operations would nevertheless be audible above background noise levels. On estimates provided to the hearing, with the use of a bulldozer, they would be 3dB(A)-9dB(A) above such levels which, at the higher levels, would be close to the threshold for complaints. At these levels, noise would plainly be verging on intrusive.
  22. As for typically more intrusive one-off peak noise events, these would similarly be audible. Such noise would, for example, be associated with revving engines or the tipping or backfilling of loosely consolidated material. While rear gardens are for the most part enclosed by fencing, the rear part to that to no. 1 is open, offering extensive views across the site. The paddocks to the rear appear to be used for keeping animals and they offer similar views. As an engineered landform viewed at relatively close quarters from these standpoints, the bunds would draw attention to the presence of working and render occupiers more sensitive to such noise as can be heard. This would extend over a minimum of three years.
  23. The basic geography of the site is that it is tightly-constrained for a mineral-working site and is close to houses, with the clear potential for undue disturbance to local residents from noise. The appellants intend to work the site flexibly, depending on the balance between quantities of overburden requiring removal and the capacity for backfilling. In the southern part of the site, the depths of overburden increase significantly. There is some dispute between the appellants and BAG regarding borehole information which underpins estimates of the mineral yield from the site. All of this must introduce uncertainty as regards the exact working method and deployment of plant at any one time, notwithstanding the details of the Operating Method.
  24. By the accepted methodology by which noise impacts from mineral working operations are assessed, the proposal can demonstrate compliance with the limits to noise levels set down in the PPG. Given that, I conclude that material

harm is unlikely to arise to a degree sufficient to render this issue, on its own, decisive in the balance of considerations. To that extent, the proposal complies with Minerals Policy 18(viii) of the Hertfordshire Minerals Local Plan Review 2002-2016 (MLP). However, that is not to say that potentially harmful impacts from noise will not occur. I shall return to this issue in considering cumulative impacts and in my final balancing exercise, below.

*Living conditions – dust*

25. I have explained that much of the site would be open throughout its working life, which would introduce an increased potential for fugitive dust from stored and exposed overburden and bare ground to affect neighbouring occupiers. That said, houses in Broad Green and Broad Green Wood are to the south-east of the site whereas evidence from the University in pursuit of its objection indicates that prevailing winds are from the south-west. Moreover, in addressing that objection, the appellants have prepared a Dust and Air Quality Management Plan (DMP) which seeks proactively to manage dust.
26. In broad terms, it would use a combination of wind speeds and directions and ground conditions to trigger a series of precautionary actions to prevent dust from leaving the site. A three-tier approach to monitoring is proposed. The first tier relates to visible dust and to the potential for it to arise from ground conditions at the site. The second tier would comprise passive monitoring for dust, involving the use of a dust flux. The third tier, and key to the effectiveness of the management plan, would consist of “real time” dust monitoring, on the site’s eastern boundary and at the University.
27. Preventative action in relation to the potential for fugitive dust emissions would be triggered by all three tiers. Thus, in addition to wind speeds and ground conditions, action may be triggered by “alert” and “action” levels of small particulates in the atmosphere (commonly referred to as “PM10” dust). Such actions would extend from careful attention to operating practice in dry, windy conditions to wetting down stored materials, roadways etc. through to a complete cessation of operations where considered necessary.
28. I deal with whether that might satisfy the University’s particular concerns separately, below. With regard to impacts on residential properties, the key to effective control is day-to-day attention to operating practice, in relation, for example, to the design of plant and equipment, keeping exposed surfaces moist and taking extra care in conditions likely to generate blown dust. Dust monitoring tends in such circumstances to be reactive, for example, as a means of verifying whether complaints relating to dust may be justified. Here, the intention is that monitoring should be proactive, as a trigger to action aimed at preventing fugitive dust. The level of control over dust emissions is therefore likely to be enhanced, which should give neighbouring residents a greater degree of assurance regarding dust impacts.
29. I note objectors’ concerns about the extent of exposed bare ground that could potentially result from the proposed operating method and that a sizeable proportion of winds in the locality are from the north-west<sup>1</sup>. It was clear from comments made by objectors at the hearing that they have little confidence in

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<sup>1</sup> See, for example, the wind roses from 2010 for Luton and Stansted airports at Figures 2 and 3 of the representation from TurnberryPlanning Limited dated 22 July 2014, although this appears to have been an untypical year.

the proposed dust control measures and consider that there will inevitably be harmful dust emissions, given the sheer proximity of operations. However, I share the view of the appellants' dust advisers, in the light of the actions proposed, that the risk of harm to residential amenity must be considered low. Given this, I conclude that no material harm should arise to their living conditions with regard to dust. To that extent, the proposal would comply with the requirements of MLP Minerals Policy 18(ix).

### *Effect on observatory*

30. The observatory is located some 500m roughly to the north-east of the site on a campus which includes research buildings and a series of telescopes. The University explains it was established in the 1970s and is one of the UK's leading astronomical observatories. It carries out nationally and internationally important astronomical research and was described as a "learning hub" in relation to teaching on ecology and astronomy.
31. Research activities include atmospheric remote sensing, aimed, among other things, at detecting climate change and high-profile global dust-generating events e.g. Saharan dust storms and the effects on UK airspace of the recent Icelandic volcano eruption. The University says that the observatory is an adviser to the Government on such matters. In this work, it participates in major international observational networks. In addition to the telescopes, some of which I visited, and in conjunction with its atmospheric research, I was able to observe at my visit to the observatory a range of sensing equipment located on the roof of one of the campus buildings.
32. The siting of the observatory in a rural location free from dust typically associated with urban industrial processes was, it was explained, important in so far as it provides the reference site for the London conurbation<sup>2</sup>. I took this to mean that it can provide a point of comparison, being located in a typical rural area characterised by woodland and agricultural land, with atmospheric and air quality within the conurbation. I was surprised that the characteristics of the locality had not already been the subject of detailed monitoring, with a view to establishing precise baseline conditions. Moreover, activities at the quarry complex would quite likely, given their longevity and proximity to it, have contributed to its atmospheric "profile". However, the appellants did not dispute the overall view of the potential for harm from dust emissions to research activities at the observatory as low risk but high impact.
33. While it was accepted by the University that larger dust particles will settle locally, it was concerned about the potential for a significant loading in PM dust in the air for significant periods of time. The effect would be in relation to PM10 and PM2.5 dust where it was estimated, given the site's proximity, that levels would be elevated. Any such increase would, it objected, negate the locality's value as a rural site, making it unsuitable for most of the current atmospheric research and other research projects. It is largely for these reasons that the DMP, which was the subject of detailed discussions both at and outside the hearing, seeks to introduce a proactive approach to monitoring and preventative action in relation to this type of dust. Such action would clearly also benefit those local residents who expressed concerns at the hearing about the health effects of dust from the site.

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<sup>2</sup> See paragraphs 2.6-2.8 of the representation from TurnberryPlanning Limited dated 22 July 2014.

34. The outcome of discussions was that there remain differences between the parties regarding the detailed wording of the "final" version of the DMP which was handed to me at the hearing by the appellants. If I were to grant planning permission, it would need to be subject to a requirement that a DMP be agreed between the Council and the appellants, to form the basis of operating practice and dust monitoring at the site. Such a plan would seek proactively to prevent harmful fugitive dust emissions. On reading the plan, I was concerned about its effectiveness in situations where, to some degree, adverse weather conditions need to be anticipated. I am also concerned about its effectiveness in limiting harmful concentrations of PM<sub>2.5</sub>-PM<sub>10</sub> dust, given their long suspension in the air and ensuing unpredictability and that monitoring and any preventative action would need to be the subject of constant surveillance.
35. Responding to visible signs of dust emissions in dry, windy conditions would plainly not be effective as a preventative measure. The DMP leaves it to the discretion of site operatives as to how to respond to the weather trigger levels indicated in Figure 1. Similar discretionary arrangements apply to the stripping, storage and reinstatement of soils and overburden and, in some respects, to haulage i.e. keeping roads in "good repair" and wetted "as required". The DMP seeks to manage the effects of wind blow across areas of bare ground by requiring that the extent of such areas is kept to a minimum. This is, however, at odds with a possible need to retain large expanses of open ground in the interests of the balancing overburden storage and backfilling. The proposed passive dust monitoring plainly cannot serve as a preventative measure even if it could provide post-event evidence of dust emissions.
36. I do not set aside lightly the amount of work put in by representatives of the University and the appellants' dust advisers at the hearing and the willingness of all parties to compromise in the interests of reaching a workable, mutually-agreed plan for dealing with dust. However, I question whether the potentially high impacts on the observatory's research work and on the equipment and telescopes located at the observatory requires that, ultimately, a precautionary approach should be taken to the possibility of harmful dust emissions.
37. These impacts relate to the maintenance of equipment and I was given practical examples of how this could occur in relation to the telescopes and atmospheric monitoring equipment. In the case of the latter, it is typically left to operate remotely and therefore exposed to the air for long periods of time. Regarding the former, the University points out that the telescope domes are not airtight and could be affected by night-time winds when open.
38. More importantly, there is the potential for dust to skew research findings by altering baseline levels, while the site is working, to a degree which could render the observatory's research, and its contribution to wider-ranging research, unreliable. That research appears to be to high levels of precision e.g. monitoring very small changes to stars, including distant stars. Other equipment which monitors atmospheric quality applies it to a column of air where it is not possible to distinguish between quarry dust and other dust more typical of a rural locality. I note the appellants' reference, at the visit, to the presence of a combined harvester in a field adjacent to the campus, which plainly has the potential to alter baseline levels. However, the University responded that the equipment is usually switched off for the limited time in a given year that harvesting takes place close to the observatory.

39. The differences between the parties regarding the DMP were portrayed by the appellants as minor. My reading of the University's objection, however, is that, while it demonstrated a willingness to seek an agreed solution, it advocates primarily that a precautionary view should be taken of the potential for harm to its research interests. For all that the DMP would provide for an enhanced level of control over dust emissions, given the risks and uncertainties that I have outlined above, I cannot be confident that it would prove to be fully effective. Even if, hitherto, there appears to have been a casual approach to the acceptance of baseline levels at the locality, given the presence nearby not just of the quarry complex but also an asphalt plant, the proposal would bring operations of an industrial character very much closer to the observatory.
40. In the light of this, and given the apparent importance attached to the observatory's research activities, any harm arising from operations, notably in relation to PM10 dust, must, I conclude, have the potential to be severe. Moreover, in the light of the University's concerns, which were forcefully expressed at the hearing, I cannot be confident of the parties' ability to reach agreement on a version of the DMP which would be acceptable to them.
41. In the light of this, I am drawn to the conclusion, on an issue in which the considerations are finely balanced, that the only acceptable course of action is to take a precautionary approach to the potential for harm from dust to the observatory's research interests. In reaching this conclusion, I have had regard to the PPG in relation to dust and to the accompanying site assessment flow chart<sup>3</sup> in the particular circumstances of the University's objection. To that extent, I conclude that the proposal would give rise to an unacceptable risk of harm to the operation of research equipment at the observatory, having regard to dust. The proposal would conflict with MLP Minerals Policy 18(ix) in so far as it fails to demonstrate that no significant degradation of the air quality would occur, having regard to the University's concerns.

#### *Cumulative effects*

42. The PPG points out that the cumulative impact of mineral development is capable of being a material consideration. MLP Minerals Policy 11 provides for a refusal of planning permission where mineral development would result in an unacceptable cumulative impact on the environment of an area. This can be in relation to the collective effects of an individual proposal or effects from a number of developments running concurrently or successively. The thrust of a number of written representations and comments orally made at the hearing relate to this issue. In particular, reference is made to an expectation that the consolidating planning permission granted by the Council in 2010 (in association with an increase in levels at Southfield Wood) would firmly "draw a line" under any further development at the quarry complex.
43. With regard to Minerals Policy 11, cumulative effects of the proposal would include continuing tracking of plant across, and lorry movements along, the B158, an extension of timescales for restoring Bunkers Hill and, in particular, the encroachment of operations close to Broad Green. Under the 2010 planning permission, Bunkers Hill was anticipated to be restored by November 2014. A consequence of the requirement to route a haul road across it would be that its final restoration would be delayed for at least a further three years. I saw in a large number of the representations adverse comments in relation to

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<sup>3</sup> See paragraph ID 27-032-20140306

the condition of the B158 close to the plant site access and crossing point, difficulties in quarry traffic negotiating the road on account of its narrowness and associated detriment to residents' living conditions. These are matters I consider below, under the heading of "other issues".

44. Residents of Broad Green, who would experience increased noise levels as a result of the proposal, will not have been immune from the effects of minerals development at the quarry complex over the years. There are clear views of Bunkers Hill and distant views of Southfield Wood from houses. In so far as the B158 provides access to the main road network, they are likely to have encountered the road and traffic conditions referred to in representations. The appellants accepted that it will not have helped local residents' perception of the prospective cumulative impacts that the previous quarry owners (for whom they have more recently acted as contractors until acquiring the site in 2010) appear to have operated the site poorly over the years.
45. It is likely, given this background, that residents' sensitivity to further minerals development would be heightened, in respect of operations which would, even on the appellants' estimates, introduce plainly audible noise of an intrusive character into the overall noise environment. Such noise would be associated with the introduction of engineered landforms, in the form of the bunds, in relatively close proximity, even if the bunds, at a distance of 75m, would not themselves appear overly dominant in wider vistas. These impacts would become a disruptive feature of day-to-day living at Broad Green, resulting in harm to residents' living conditions. Similar considerations would apply to occupiers of the travellers' site to the north of the site, occupiers of Home Farm and, to a lesser extent, occupiers of properties at Broad Green Wood.
46. Under the proposal, these conditions would endure for a minimum period of three years, at a time when residents would, following previous assurances, be expecting restoration of the quarry complex to be moving towards completion. In the light of this, I conclude that harm would arise from the cumulative effects of the proposal, when considered together with previous working at the quarry complex. To that extent, conflict would arise with MLP Minerals Policy 11. While the harm would not be decisive in my considerations, it nevertheless weighs against the proposal. I shall return to it in my balancing exercise.

#### *Other issues*

47. Objections are raised by third parties on a number of other grounds but, under this heading, I deal only with those relating to highways, since road conditions and related highway safety concerns featured in a number of representations. The B158 would provide road access from the site, via Bunkers Hill, the crossing point and the plant site, to the main highway network. The Inspector who conducted the MLP examination referred to it as an old rural road of variable width with roadside hedges and banks making it appear narrower. I have no reason to disagree with that description. That over-running of roadside verges is a feature of its use, by quarry traffic amongst others, is borne out by reinforcements to them in the form of stone kerbs.
48. The Inspector went on to acknowledge environmental concerns regarding its continued use for large numbers of lorry movements. It is plainly not ideal for intensive lorry traffic, as graphic photographs submitted by third parties of two lorries trying to pass each other testify. The proposal would generate 144 daily vehicle movements, comprising a mixture of articulated dump trucks and

lorries transporting minerals to the processing plant via the crossing point and lorries exporting processed sand and gravel. A total of 80 movements (40 in/40 out) would be engaged in the latter. The highway authority raises no objection, principally because this amount of traffic would be below a limit of 400 movements (200 in/200 out), excluding crossing movements, from operations at the complex as a whole imposed under an earlier permission.

49. At the hearing, I asked what the rationale was for such a limit. The Council was of the view that it reflected the status quo at the time of the permission (thought to be 1987). BAG made the point that, while they had concerns relating to highway safety, their particular concerns were about the effect of continuing traffic on residents' living conditions – e.g. from mud on the road, grime and dust and near misses with quarry traffic. I acknowledge these concerns and to my mind they underline the concerns I have already expressed on the cumulative effects of extraction, viewed in association with previous working. However, given the existence of the limit on vehicle movements and the benchmark it appears to set for acceptable numbers of movements, a separate objection on highways grounds would be difficult to sustain.

*Need for the mineral*

50. My reading of the Council's objection on this ground is that the site is not within an identified Preferred Area and there is an adequate landbank of permitted sand and gravel reserves. There is therefore a risk that sites within preferred areas may not be worked in a timely manner should the proposal be allowed. MLP policies 1, 2 and 4 are cited. Minerals Policy 1 commits the Council to maintaining an adequate landbank. Minerals Policy 2 allows it to have regard to preferred areas in considering proposals. Preferred areas for future working are identified in Minerals Policy 3. The key policy in relation to this issue is Minerals Policy 4, which sets out the circumstances under which the Council would consider allowing working outside preferred areas. Much of the appellants' evidence on this issue is directed towards its provisions.
51. While the Council maintains that there is a risk to the timeliness of working within the preferred areas, it produces little to no evidence in support of such a contention. Its refusal reason is premised on a claimed failure by the appellants to demonstrate the lack of risk. I have some sympathy with them regarding the likely actual harm on this account. The site is small and the estimated yield of 450,000t is modest, amounting to a little over 4 months' supply in a typical year's output from the county. The Council has, at sites at Thorley Hall Farm and Pynesfield<sup>4</sup>, not objected on need grounds to proposals which yielded similar amounts of material, notwithstanding the landbank position. Indeed, it took a positive view of the contribution that these sites could make to supply, in so far as it would widen the range of sources and prevent the landbank being restricted to a few very large sites.
52. In the light of this, focusing on need alone and setting aside the wider merits of the proposal, I see no reason why similar considerations should not apply here. Far from being a source of harm in its own right and a factor which weighs against the proposal, as the Council sees it, I view need as a consideration which could weigh in favour of the proposal. To that end, the appellants argue that, given the size of the landbank and other commercial factors at play, there is no risk to the timeliness of working of the preferred areas. They go on to

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<sup>4</sup> See paragraphs 5.2.4-5.2.5 of the Appellants' Statement for this appeal.

argue that in spite of an apparently healthy landbank position, reserves are concentrated in the hands of a few large producers to an extent that is in fact restricting supply locally. Finally, they argue that, unless worked in conjunction with the main plant site, as part of the quarry complex, the reserves at Broad Green would in effect be sterilised.

53. I take each of these contentions in turn. As regards the first of them, the agreed evidence is that, at one of the alternative sites whose reserves make a sizeable contribution to the County's landbank, Rickneys Quarry, permitted reserves are currently mothballed. This is understood to be for economic reasons, separately from whether the appeal site would be worked or not. There were a number of third-party representations in support of the appeal which drew attention to the need for local supplies of sand and gravel which the appeal site would be well-placed to meet. In the light of this, and of the small yield from the site, I conclude that there would be little to no risk to the timeliness of working of other permitted sites.
54. Turning to the landbank, the Council estimates that, based on the apportionment of regional supply set for Hertfordshire by the East of England Aggregates Working Party, it stands at 11.4 years' supply. This is some way above the minimum of 7 years' supply (for sand and gravel) which the NPPF requires authorities to maintain, while also ensuring that large landbanks bound up in very few sites do not stifle competition<sup>5</sup>. This figure is not disputed by the appellants. However, they say that the reserves are in the hands of just a few producers, raising concerns about whether that acts to stifle competition and restrict supply.
55. On the Council's evidence, there are five other sites with planning permission, of which four are currently working, with a fifth (Rickneys Quarry) which is dormant. This site is not within a Preferred Area but (on the appellants' evidence) has 1.24mt consented reserves. Taken together, these five sites are in the hands of three separate operators, all of them large national producers. In addition to these sites, the Council points to a series of rail aggregates depots and waste recycling sites as alternatives sources of aggregates supply, including secondary aggregates. I see no reason to exclude Rickneys Quarry from considerations. The available evidence indicates that there are no insuperable planning obstacles preventing its reopening, the relevant considerations being purely commercial/economic.
56. At the hearing, the appellant sought to argue that the tying up of the county's permitted reserves in a few sites under the control of large operators has acted to restrict supply particularly to small/medium-sized building companies. Mr Collins of Easymix Concrete gave independent oral evidence to this effect, referring to his difficulties in obtaining supplies from Westmill, Panshanger and Tyttenhanger quarries. Other similarly-sized companies wrote in similar vein. The Council and third parties countered this with evidence of their own researches which indicated that there was no problem with supplies of aggregates at any of these sites, although I note that the third-party evidence related to small domestic-scale quantities of material.
57. The Council indicated at the hearing that it is seeking to widen the range of sources of supply through the minerals plan process. A further review of the MLP is about to commence. For all that, I consider that there is no persuasive

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<sup>5</sup> See paragraph 145

evidence that the limited number of sites contributing to the landbank and their ownership by large aggregates producers acts either to stifle competition or to restrict supply. The companies' difficulties appear to me to stem from the particular commercial arrangements under which aggregates are supplied, rather than a fundamental lack of capacity to supply. The available evidence cannot support the claim that the larger producers are actively "hoarding" reserves or that the mere fact of their ownership of the reserves (as opposed to how and with whom they do business) acts as any form of brake on supply.

58. Turning to whether the reserves would be sterilised, the appellants' argument for this is based on the cost of working the site if required to be in association with dedicated processing plant as opposed to the existing plant. They referred to the likely upshot as amounting to "economic sterilisation". This is an argument capable of weighing heavily in favour of the proposal and, on the wording of the policy, could on its own justify working the site. However, it is undermined by two considerations.
59. Firstly, in the context of minerals planning, sterilisation normally refers to a physical process by which the mineral deposit is put permanently beyond reach of working, economically or otherwise – typically, by building on top of it. In such circumstances, it is plainly of benefit that, in order to avoid this happening, the mineral deposit is worked in advance of such development. That is not the case here. There are no proposals to build on the site. It would therefore be capable of being worked, if circumstances allow and it is economic to do so, in the future. To that extent, the reserves would not be sterilised.
60. That such future working of the site may be more than a remote possibility is borne out by the evidence of the MLP adoption process itself, whereby, as part of its preparation, the appeal site, together with land at Howe Green and south of Bunkers Hill, was promoted as a Preferred Area. At the hearing, and when asked whether the sites would again be promoted, all other things considered, the appellants responded in the affirmative. In the light of this, it is difficult to support a view that working would be in accordance with criterion (iii) of the policy in so far as the sterilisation of the resource would otherwise occur.

### *Balancing exercise*

61. Although I identify harm in relation to two main issues – the effects from dust on the observatory and the cumulative impact of working – no one issue is decisive in my considerations. The harm to the observatory is capable of being decisive. However, I have said that the considerations are finely balanced and a different view could be taken of the proposal's merits in the light of what are perceived by the appellants to be minor differences between themselves and the University on the form of a finally-agreed DMP. However, even if a different view were to prevail, harm nevertheless arises in relation to cumulative impact, given the likely noise impact on residents at Broad Green allied to previous impacts from operations at the wider quarry complex. That harm needs therefore to be balanced against the benefits arising.
62. These relate primarily, if not exclusively, to need and to avoiding sterilising the reserves. However, regarding the latter, for the reasons I have given, the proposal would fail to comply with the requirements of MLP Minerals Policy 4. Sterilisation, as it is properly understood, would not occur if the site were not worked in conjunction with the plant site. As for the other provisions of this policy, while I have concluded that the proposal would not affect the timely

working of the preferred areas, equally, the landbank position is healthy and there is no persuasive evidence of a need for sand and gravel that cannot be met from the identified areas. In reaching this conclusion, I have had regard to the appellants' claims regarding restrictions in supply to local builders.

63. I do not lose sight of the requirement of the NPPF that decision-makers should give great weight to the benefits of mineral extraction. However, that must be set in the context of an approach that seeks to ensure that there is a sufficient supply of material to provide the necessary infrastructure etc. to support sustainable economic growth. On the evidence, those requirements are met from existing permitted sites. In the light of this, and having had regard to local landbanks and evidence of local demand, the need for the mineral cannot outweigh the harm that I have identified. That applies whether the harm relates to the effects from dust on the observatory and cumulative impacts, as described above, or is limited to the latter.

### **Conclusions**

64. I have had regard to all other evidence and representations both for and against the proposal. In the light of the foregoing, and for the reasons given, I conclude that the appeal should be dismissed.

### **Appeal B**

#### **Background and main issue**

65. This appeal is linked to the working of Broad Green but it raises issues separately from it. These relate to the need to review timescales for restoration of the remaining parts of the Water Hall complex irrespective of whether it was worked. In granting planning permission, the Council has imposed shorter deadlines to those sought by the appellant which, according to their evidence, would have needed to be extended even without the working of Broad Green. In the light of this, the single main issue is whether the disputed conditions imposed by the Council are necessary and reasonable, having regard to the availability of restoration materials and the impacts of continued operations at the site.

#### **Reasons**

66. Under the 2010 permission, restoration at Southfield Wood should have been completed by 30 September 2013, that at Bunkers Hill by 30 November 2014 and that at Water Hall (the main plant site) by 21 February 2017. Under the planning permission granted by the Council, the deadline for Southfield Wood is extended to 31 October 2014, that for Bunkers Hill to 31 March 2016 while that at the plant site remains at 21 February 2017. The application sought a deadline of 31 December 2014 for Southfield Wood, 31 December 2017 for Bunkers Hill and 31 December 2019 for the plant site. For comparison, completion of restoration at Bunkers Hill would have been a further two years beyond, and the plant site a further one year beyond these proposed deadlines had the Broad Green site been worked.
67. I can deal briefly with Southfield Wood. The difference between the parties is 2 months. The appellants merely seek the flexibility of being able to reinstate soils, if weather and ground conditions allow, beyond a strict mid-autumn deadline. I see nothing untoward about such a minor increase in the timescale, especially if it would allow restoration to be completed before the onset of

winter and avoid having to return to operations the following spring. The main dispute therefore relates to Bunkers Hill and, as a consequence, the plant site, which would, upon completion of restoration elsewhere, be worked for residual underlying sand and gravel and then restored.

68. Under the terms of its Environmental Permit, the appellants are required to source soils from the processing of imported construction and demolition waste. These are screened out of the waste stream, a matter with which I deal in more detail in dealing with Appeal C. Soils reinstatement was being carried out at Southfield Wood at the time of my visit. The topsoil substitute being used was somewhat sandy and stony to my mind but I have no evidence that it is inadequate for purposes of the site's after-use. Similar materials, sourced from an incoming waste stream, will need to be used at Bunkers Hill, albeit that its northern and eastern flanks are largely reinstated. The appellants concede that previously-stored soils on the complex as a whole have subsequently been "lost" – presumably sold to third parties and exported.
69. In order to rectify what it perceives as delays to the timely restoration of Bunkers Hill, the Council refers to the possibility of utilising soils within the wider site identified in a survey carried out by Reading Agricultural Consultants in 2010. It also questions whether soils could be imported to the site for use directly for restoration purposes. On the former, in evidence to the hearing, the outcome of the appellants' investigations into the whereabouts of these soils indicates that they also appear to have been exported from the site at some point, or otherwise lost.
70. On the latter, a representative from the Environment Agency attended the hearing. He confirmed that a variation of the Permit could be sought to allow soils for direct use in restoration but that this would be subject to strict limits on the presence of contaminants. My reading of his evidence is that, for practical purposes, and aside from the timescale required for the approval of any variation, these limits would most likely significantly limit the range of soils likely to be suitable. From a timing perspective, this would probably largely negate any advantage from avoiding having to source and process waste.
71. Aside from that, the differences between the parties appear largely to come down to whether delays to restoration should have been anticipated sooner and the evidence regarding the materials balance. The latter relates to the requirement for infilling and soil spreading set against available resources, with an understanding that any shortfalls of soils can only practically be made up through their sourcing from incoming waste streams. The Council criticises the appellants' estimated recovery rate for soils as arbitrary – 20-40% with an assumed 25% rate for purposes of estimating the requirement for imported materials. However, no more reliable alternative figure was presented in evidence. The appellants view sourcing soils and in particular topsoil (or a topsoil substitute) as key to restoration, a view with which I concur.
72. It is plain that sourcing suitable materials from which soils can be produced is the driver for the timing of restoration. Without such material, soils would not otherwise be available. There is a clear programme for those parts of the site where restoration is outstanding, with Southfield Wood to be followed by the haul road, then Bunkers Hill and finally, the plant site, which seems to me to be sensible. I accept also that the available quantities of materials from which soils can be sourced will have dipped during the recession, which, on its own,

- will have delayed restoration timescales. As to whether the appellants might have acted earlier to meet deadlines, they respond that it is incorrect to assume that reclamation materials are readily available in the market and that soils can equally be provided irrespective of the quantity or quality needed.
73. The latest available materials balance, dating from June 2013<sup>6</sup>, shows a shortfall of 130,000 cu m of topsoil, alongside a surplus of 73,000 cu m of capping material/subsoil. At a recovery rate of 25%, this would require the further importation of 520,000 cu m of waste. I accept that, without Broad Green, this will lead to an excess of materials over that necessary (estimated at 177,000 cu m) to complete infilling to approved levels, with the likelihood of a need for further increases. That does not, I consider, justify allowing extraction at Broad Green simply in order to create a void space for backfilling of imported materials to the complex as a whole. Nevertheless, the reality appears to be that there remains a need to import further significant quantities of materials in order to source suitable soils to achieve high-quality restoration.
74. In the light of this, the appellants' proposed deadline of the end of 2017 is, I consider, more realistic than the Council's alternative deadline. I agree with the appellants that that date in any effect imposes an effective deadline of late 2015 for the completion of restoration.
75. I accept that that will mean further lorry traffic and crossing movements on the B158. Restoration of the plant site would also plainly be put back as a consequence of accepting a revised timescale for Bunkers Hill. While that would add to the cumulative impacts for local residents, it is I consider inevitable if an acceptable form of restoration is to be achieved, given its dependence on sourcing soils from incoming waste. There appears to me to be no other feasible option for achieving restoration within a shorter timescale.
76. In the light of this, I conclude that the disputed conditions imposed by the Council are neither necessary nor reasonable, having regard to the availability of restoration materials and the impacts of continuing operations. They impose an unrealistic timescale for the restoration of Bunkers Hill and, in consequence, the plant site, which would lead either to a lower-quality restoration or a further need to extend timescales for restoration. Neither of these outcomes are in the best interests of the long-term future of the restored site or of bringing any degree of certainty to future activities, having regard to continuing cumulative impacts.
77. For these reasons, I conclude that the appeal should partly succeed, "partly" in the sense that I reject the extended restoration deadlines sought, which allow for working of the Broad Green site. I will grant a new planning permission without the disputed conditions 3, 28 and 57 attached to the planning permission granted by the Council but substituting alternative versions of these conditions, as set in Annex 2 to this decision, and retaining the relevant non-disputed conditions from the Council's permission.

## **Appeal C**

### **Background and main issue**

78. My reading of the disputed condition is that the use of the MRF in connection with Bunkers Hill should cease either by 30 November 2014 or upon the

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<sup>6</sup> Attached as Appendix 3 to the appellants' statement for this appeal.

completion of substantive operations at Bunkers Hill, whichever comes first. The Council's decision on the application subject of Appeal B envisages the completion of infilling and restoration at Bunkers Hill by 31 March 2016. Accordingly, 30 November 2014 would become the operative date for cessation of the use of the MRF, with its removal required some 12 months thereafter. The effect of my decision on Appeal B is to extend further the deadline for the completion of restoration at Bunkers Hill to 31 December 2017. Since waste material needs to be screened in order to produce soils for restoration purposes, the means by which incoming materials would be screened to produce soils needs to be in place up to that date.

79. The application subject of the appeal is for an extension to the timescale for removing the MRF. In preparing for the hearing, I was surprised that the Council refused planning permission outright as opposed to imposing a deadline for removal in line with its extended deadline for the completion of restoration at Bunkers Hill. I made reference to this in opening the hearing. However, my understanding of the basis of the Council's objection is that it is not to the proposed timescale for its removal but to the fact that it is no longer necessary for a MRF to be located on the site at all. In the light of this, I consider the main issue to be whether the continued use of a MRF at the quarry complex is necessary, having regard to outstanding restoration requirements.

### **Reasons**

80. A materials recycling facility is commonly understood to be a building housing equipment, to include various screens and often a picking station for sorting waste by hand, by which materials are separated out from an incoming diverse waste stream. The use of a MRF at the quarry complex was allowed under a planning permission granted in 1998, in connection with the use of Southfield Quarry for landfill. The introduction of a landfill tax at the time significantly increased the unit cost per tonne of transporting waste directly to landfill and so a MRF was permitted in order to separate and recover plastics, timber etc. By this means, the volume of waste landfilled was reduced accordingly.
81. The current planning permission governing the MRF, and which the appellants seek to vary, was granted in 2008. Under it, the MRF, previously intended to be used exclusively in connection with Southfield Wood, was linked to the infilling and restoration of Bunkers Hill. Condition 2 of this permission controls timescales for its removal, while condition 7 governs the details of the facility.
82. The Council's evidence is that the building intended to house MRF was never in fact built and that the various plant associated with it, whose location within the site was approved under the 1998 permission, has since been removed. The Environmental Permit for Bunkers Hill allows for its infilling by construction and demolition wastes i.e. glass, concrete, bricks, tiles etc. including soils. This material is dry-screened using modern, mobile screening plant. The plant is located in the open at the main plant site and I was able to observe it in the course of my visit. I noted also that some loads are tipped directly into Bunkers Hill where the composition of the waste indicates that screening is not required. In the light of this, there is no longer a requirement for a MRF and that is the basis of the Council's outright refusal of planning permission.
83. It seems to me necessary that the relevant planning permission governing the use of the equipment by which recyclable waste is recovered from the waste stream should reflect, in terms of any timescale for its eventual removal, those

governing outstanding infilling and restoration. It is also necessary that the approved details should reflect the type of equipment in use at the site. In their evidence, the appellants focus on the need for timescales for removal of the plant to reflect outstanding restoration commitments but continue to refer to it as a MRF. It is plain however that it is not and so, in discussions at the hearing, they suggested that I also substitute amended wording for condition 7 of the 2008 permission to refer to the equipment that is in use.

84. The Council's sole reason for refusal is on the basis that the operation of a MRF represents inappropriate development in the Green Belt, harmful to its openness. I would concur with such an objection if the MRF were indeed still in place, given that it appears to be superfluous to the outstanding restoration requirement. However that is not the case. Those elements of it which were in use have been removed and the Council raised no objection to the equipment currently in place. Since there is no dispute between the parties that its continuing operation is necessary in order to source soils from the incoming waste in order to achieve high-quality restoration, it cannot represent inappropriate development in the Green Belt. No harm to the Green Belt would therefore arise and it is not necessary to undertake any balancing exercise in relation to its merits bearing in mind the *Redhill Aerodrome* judgment.
85. I therefore conclude that the continued use of a MRF at the quarry complex is not necessary but that it is nevertheless necessary for the screening plant currently in use to continue. Any timescale for its removal should reflect the timescales for the outstanding restoration requirements to be met. By these means, the type of screening plant used, and deadline relating to its removal, can be regularised.
86. For these reasons, I conclude that the appeal should succeed. I shall grant a new planning permission without the disputed condition 2 but substituting an amended deadline. I shall also substitute an amended condition 7 to reflect the equipment being used at the complex, while retaining the relevant non-disputed conditions from the previous permission. I set out the amended conditions in the attached Annex 3. Since the permission relates to the linking of the use of the equipment to Bunkers Hill, the deadline for its removal will be that relating to the extended deadline for the completion of restoration as set out in my decision on Appeal B.

*C M Hoult*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

Mr D K Symes BSc(Hons), C.Eng, FGS, MIMM, FIQ, FRGS, ARSM	D K Symes Associates
Mrs J Lyons	Appellant Company
Mr T Pairmain	Appellant Company
Ms S Lewsey	Former Site Operators
Dr C Holman BSc PhD C.Env C.Sci FIEEnSci FIAQM FCIWEM	Brook Cottage Consultants
Mr L Jephson BEng(Hons) MIOA	L F Acoustics Limited

### FOR THE LOCAL PLANNING AUTHORITY:

Mr C Dempster MA(TP)	Principal Planning Officer, Hertfordshire County Council
Mr B Owen MRTPI	Team Leader, Development Management, Hertfordshire County Council
Ms J Greaves	Team Leader, Minerals and Waste Planning Policy, Hertfordshire County Council

### INTERESTED PERSONS:

Mr S Baker DMS BSc DipTP MRTPI	Consultant representing Bayford Action Group
Mrs A Willoughby-Richards	Bayford Action Group
Prof H Jones	University of Hertfordshire
Prof J Ulanowski	University of Hertfordshire
Ms S Gray MRTPI	TurnberryPlanning Limited (representing University of Hertfordshire)
Ms P Wilson BSc(Hons) C.Sci MIAQM MIES	Air Quality Consultants Limited (representing University of Hertfordshire)
Mr G Rowley	Bayford Parish Council
Mr R Devonshire	Environment Agency

Mr A Collins	Easymix Concrete
Ms B Sell	Local Resident
Mr P Neilson	Local Resident
Ms K Neilson	Local Resident
Mr M Jack	Local Resident
Mr P Allan	Local Resident
Ms E Shaddock	Local Resident
Mr C Willoughby	Objector

### **DOCUMENTS PUT IN AT THE HEARING**

1	Minerals Consultation Areas in Hertfordshire Supplementary Planning Document put in by the Council.
2	Letter from Mr Baker dated 21 August 2014 put in by Bayford Action Group.
3	Supplementary Statement of Bayford Action Group in relation to the Operating Method.
4	Information on aggregates suppliers within 6 miles of Water Hall put in by Bayford Action Group.
5	Full copy of Mr Jack's representation to the Planning Inspectorate on the appeals put in by Mr M Jack.
6	Broad Green – Draft Statement of Common Ground put in by the Council.
7	Extract from Hertfordshire Minerals Local Plan Review Inspector's Report on Water Hall Complex put in by the Council.
8	Water Hall updated programme (bar chart) put in by the appellants.
9	Updated statement on noise impact from working at Broad Green put in by the appellants.
10	Dust and Air Quality Management Plan (final version) put in by the appellants.
11	Dust and Air Quality Management Plan (final version with amendments) put in by the University of Hertfordshire.
12	Further statement by TurnberryPlanning Limited on behalf of University of Hertfordshire on the dust management plan.

## **ANNEX 1**

### **APPEAL REF. APP/M1900/A/14/2220111 – CONDITIONS IN DISPUTE**

3. All mineral extraction, mineral processing, infilling operations and restoration (excluding aftercare) at Water Hall shall cease on 21 February 2017, except for:
- (a) works in connection with the methane gas and leachate management systems, including monitoring activities;
  - (b) works in connection with any approved (i.e. with planning permission) utilisation of gas for energy production;
  - (c) restoration and aftercare operations required for those areas affected by methane gas and leachate management systems; and
  - (d) infilling operations to raise levels as may be required pursuant to conditions 18 and 41 below.

Reason: To ensure that an orderly programme of operations and restoration is carried out in such a way that the adverse effects on local amenity are minimised and the complete restoration (subject to permitted gas utilisation) of the land to a high environmental standard and to a beneficial afteruse at the earliest opportunity in accordance with the national planning policy (NPPF, Para 144) and Policies 13 and 14 of the Hertfordshire Minerals Local Plan Review 2002-2016 Adopted 2007.

28. The development authorised by this permission shall be completed to the satisfaction of the Mineral Planning Authority by 31 October 2014, except for:
- (a) aftercare requirements;
  - (b) works in connection with the methane gas and leachate management systems;
  - (c) restoration and aftercare requirements for the areas affected by the methane gas and leachate management systems.

Reason: To ensure that an orderly programme of operations and restoration is carried out in such a way that the adverse effects on local amenity are minimised and that the complete restoration of the land to a beneficial afteruse is achieved.

57. All mineral extraction, infilling and restoration operations at Bunkers Hill shall be completed by 31 March 2016, except for works relating to aftercare, which shall be completed in accordance with the approved Aftercare Scheme.

Reason: To comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990.

## **ANNEX 2**

### **APPEAL REF. APP/M1900/A/14/2220111 – AMENDED CONDITIONS**

3. All mineral extraction, mineral processing, infilling operations and restoration (excluding aftercare) at Water Hall shall cease on 31 December 2019, except for:
- (a) works in connection with the methane gas and leachate management systems, including monitoring activities;
  - (b) works in connection with any approved (i.e. with planning permission) utilisation of gas for energy production;
  - (c) restoration and aftercare operations required for those areas affected by methane gas and leachate management systems; and
  - (d) infilling operations to raise levels as may be required pursuant to conditions 18 and 41 below.
28. The development authorised by this permission shall be completed to the satisfaction of the Mineral Planning Authority by 31 December 2014, except for:
- (a) aftercare requirements;
  - (b) works in connection with the methane gas and leachate management systems;
  - (c) restoration and aftercare requirements for the areas affected by the methane gas and leachate management systems.
57. All mineral extraction, infilling and restoration operations at Bunkers Hill shall be completed by 31 December 2017, except for works relating to aftercare, which shall be completed in accordance with the approved Aftercare Scheme.

### **ANNEX 3**

#### **APPEAL REF. APP/M1900/A/14/2220112 – AMENDED CONDITIONS**

2. The development hereby permitted as detailed under Condition 7 below shall cease by 31 December 2017 or upon the cessation of infilling and restoration (excluding aftercare) of Bunkers Hill Quarry as permitted under planning permission 3/0842-04 dated 18 July 2008, whichever is the earlier. All plant, structures and equipment used in connection with this use shall be removed before the end of a further 12 months from this date.
7. Planning permission is hereby given for the use of mobile screening and crushing plant to replace a materials recycling facility, subject to details which shall be submitted to the Waste Planning Authority for its written approval by no later than 28 days from the date of this decision. The plant hereby approved shall be assembled and used only in accordance with the approved details and shall be removed as per the requirements of Condition 2 above.