

APP/M1900/W/24/3346607

Former Hatfield Aerodrome

Statement of Case re-opened Inquiry

On behalf of Brett Aggregates Limited

March 2026

Contents

1 Introduction 3

2 Revised Public Access Strategy and Phasing10

3 Minerals Policy 18(x) 21

4 Planning Conditions.....30

5 The 2000 Agreement and the 2024 Deed of Variation 32

6 Conclusion..... 37

LIST OF APPENDICES (SEPARATE VOLUME)

- Appendix 1: The consultation exercise summary
- Appendix 2: Technical Note: Rationale for the location of the upper and lower mineral lagoons
- Appendix 3: Extract of SPG Figure 7 Landscape Masterplan
- Appendix 4: Consolidated version of suggested planning condition 9, 12 and 27
- Appendix 5: Response to representations outside of the scope of the Inquiry

DOCUMENT CONTROL

Project:	Hatfield Aerodrome	Job Number:	24.135
Client:	Brett Aggregate Limited	Date:	27/03/2026
Author	Owen Jones		
Issue:	Final	Status:	Final
File Origin:	https://lrmpplanning.sharepoint.com/sites/lrmp/projects/2024/24.135 Hatfield Aerodrome/10 Appeal/Statement of Case final 27th March 2026.docx		

1 Introduction

- 1.1. Parties engaged in this Appeal will be familiar with its circumstances.
- 1.2. The Appellant is seeking planning permission to establish a new sand and gravel quarry on land at the former Hatfield Aerodrome.
- 1.3. Land at the former Hatfield Aerodrome is identified in the Minerals Local Plan (MLP) as a Preferred Area for mineral extraction. The Appeal Site is part of this Preferred Area.
- 1.4. As a matter of principle, the Appeal Scheme is consistent with the MLP; mineral extraction at the Preferred Area is intended in the event additional mineral resources are required to be worked. That is the prevailing circumstance.
- 1.5. The Appellant's planning application was refused by Hertfordshire County Council, the Minerals Planning Authority (MPA), on the 12th January 2024.
- 1.6. Pursuant to Section 78(a) of the Town and Country Planning Act 1990, the Appellant lodged an appeal against the MPA's decision. The Appeal was recovered by the Secretary of State for (then) her determination.
- 1.7. Following the Appeal being brought, the MPA resolved to no longer contest the grant of planning permission; they withdrew their reasons for refusal on the 24th October 2024.
- 1.8. The Appeal was heard at a Public Inquiry that sat in November and December 2024.
- 1.9. In its opening submissions the MPA made clear that:

it "now agrees that subject to the imposition of suitable conditions (one of which is intended to secure a Deed of Variation to the December 2000 planning obligation ("the 2000 Agreement")) and the completion of a suitable s.106 planning obligation – an agreed and signed draft of which is before the inquiry – permission should be granted and the appeal allowed".¹

¹ INQ-02 HCC Opening Statement (paragraph 4 and 48)

- 1.10. The MPA's position was the same at the close of the Inquiry on the 14th January 2025.²
- 1.11. The appointed Inspector has since written his report for the Secretary of State's consideration. That report has not been made available to any party.
- 1.12. The Secretary of State wrote to the Appellant and the MPA on the 11th November 2025, notifying them that the Inquiry was to be re-opened.
- 1.13. The Secretary of State's letter explains that, in his Report, the appointed Inspector notes that:
- "the Hatfield Aerodrome Supplementary Planning Guidance states that a balance should be struck between maximising the use of the mineral resource and protecting the amenity of residents and users of the park. However, he considers that the proposal has not effectively struck a fair balance. This relates specifically to:*
- a failure of the Public Access Strategy to achieve the convenient cross-park access during the life of the quarry that is envisaged by the 2000 Agreement and MLP Policy 18(x), in part due to the proposed rerouting of the two paths which currently cross the site linking Sleepshyde³ with Salisbury Village in Hatfield;*
- a failure to integrate the restored phases into the unaffected part of EP in a timely manner, in part due to the positioning of the lagoons, which means that when the worked-out areas to the west are restored, it will not be possible to integrate them into the unaffected part of the park to the east through extensions to it, until the quarry is in its final stages of restoration".*
- 1.14. This correspondence goes on to state that the Inspector considers that it would be possible to amend the proposal to acceptably address these issues and has therefore recommended a new condition (suggested condition 4a) if the Secretary of State were to grant planning permission.
- 1.15. The practical effect of the suggested condition would prevent the Appellant from commencing development until a revised Overall Phasing Plan, a revised Initial Site Establishment Plan and a revised Restoration Plan were submitted to and approved by the MPA.
- 1.16. National Planning Practice Guidance states that such pre-commencement conditions should only be used where there is a clear justification, which is likely

² INQ-40 HCC Closing Statement (paragraph 1)

³ Understood to mean Smallford

to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission.⁴

- 1.17. In the terms of suggested condition 4a, such plans would need to provide:
- (a) convenient east-west public access across the site; and
 - (b) meaningful integration of restored phases into the unaffected Ellenbrook Park before the completion of the mineral operation.

The Appellant's Position

- 1.18. The Appellant has considered carefully the available correspondence, and what it understands to be the concerns that underpin the Inspector's recommendation in this regard, and also the purpose of Condition 4a.
- 1.19. It has sought to address these matters by:
- (a) providing additional information about public access,
 - (b) proposing adjustments to the Public Access Strategy and phasing plans; and
 - (c) proposing modified conditions.

Main Issues

- 1.20. The main issues identified for the re-opened inquiry are as follows:
- (a) Whether the identified concerns relating to cross-park public access and integration with the unaffected eastern part of Ellenbrook Park, are satisfactorily improved through the revised public access strategy and phasing drawings.
 - (b) The extent (if any) to which this would need to involve changes to the existing conditions and the introduction of new conditions.
 - (c) The extent (if any) to which this would need to involve changes to the deed of variation, with particular reference to the potential for changes to phasing or redesign, or any other provisions.

(CD/17.10 refers)

⁴ Paragraph: 007 Reference ID: 21a-007-20180615

1.21. The Appellant has prepared this Statement of Case to address the three main issues. It provides the Appellant's view of the following:

- (a) The potential for changes to phasing or redesign, or any other provisions, to lead to improved public access to Ellenbrook Park, including to the unaffected eastern part of the Park;
- (b) The proposed amended and additional planning conditions; and
- (c) The implications arising from any changes or provisions identified above, including any implications for the submitted Environmental Statement and signed Deed of Variation.

1.22. The Statement of Case has been jointly prepared by Mr Gregor Mutch and Mr Owen Jones, who each gave evidence to the public inquiry, and Ms Andrea Bruce who also appeared at the public inquiry in respect of the discussions concerning the legal agreements.

1.23. It is supplemented by:

- (a) A note compiled by the authors of the Environmental Statement or other witnesses that gave evidence at the public inquiry (CD/17.05);
- (b) Information regarding the public consultation that has been undertaken by the Appellant (*Appendix 1*); and
- (c) A technical note concerning the positioning of the upper and lower lagoons (at *Appendix 2*).

1.24. In addition, three Statements of Common Ground have been prepared between the Appellant and the MPA, concerning:

- (a) Planning policy (CD/17.13)
- (b) The 2000 Agreement and the 2024 Deed of Variation (CD/17.14)
- (c) The Public Access Strategy (CD/17.15)

1.25. A further Statement of Common Ground is also being prepared between the Appellant and Colney Heath Group (CHG).

The Scope of this Re-opened Inquiry

1.26. It is instructive to note at this point, and for the benefit of persons who may not be familiar with proceedings, that the MPA and the Appellant agree that the Appeal Scheme is in accordance with the development plan taken as a whole

notwithstanding its effects.⁵ This is highly relevant in the context of Section 38(6) of the Planning and Compulsory Purchase Act 2004; this affords a primacy to the development plan.

- 1.27. CHG allege that both in terms of principle, and effects, there are material considerations that justify a decision other than in accordance with the development plan. Neither the Appellant nor the MPA accept its criticisms of the Appeal Scheme. The Inspector will have already considered those respective and competing positions in writing his report.
- 1.28. The scope of this re-opened inquiry is concerned only with the issue of public access and whether alternative measures could be realised, either through the imposition of what is termed Condition 4a or through the present proceedings.
- 1.29. On this basis, matters regarding the great many other items which have been considered in detail previously are not revisited, save for the limited instances where they are engaged by the potential changes to the Public Access Strategy.

Public Consultation

- 1.30. In view of the proposed changes to the Public Access Strategy and the phasing drawings, the Appellant has undertaken both informal and formal public consultation.
- 1.31. The Appellant met with both the MPA and CHG and other parties in December 2025 and January 2026 to explore what potential adjustments could be made.
- 1.32. It then published the proposed amendments and the associated Environmental Statement Addendum for a period of formal consultation between 11th February 2026 and 15th March 2026. The MPA notified various consultees and members of the public and organisations who had responded to the planning application and appeal previously.
- 1.33. Information regarding this, and the Appellant's consideration of matters raised, is set out in *Appendix 1*. Where substantive comments have been made – for example the re-sequencing of phases D and E - they are addressed in the body of this Statement. Where matters relating to public access have been raised

⁵ INQ-02 HCC Opening Statement (para 48) which is ostensibly repeated in INQ-40 (its Closing Statement)

which were discussed previously, the Appellant relies on its previously submitted information, for example in relation to matters of safety, this includes Mr Mutch's proof of evidence at CD/BAL4-01 (see paragraphs 3.5-3.7, section 4 and paragraphs 9.5-9.7, 9.15 and 9.16.1-9.16.10).

- 1.34. Where matters have been raised which are outside of the scope of the re-opened Inquiry, the Appellant has responded in overview in *Appendix 5*. This includes further explanation of the mechanism for the handover of parts of the site to the Ellenbrook Trust.

The Development Plan

- 1.35. For the benefit of all main and interested parties, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with development plan unless material considerations indicate otherwise. In this instance the development plan comprises principally the 2007 Hertfordshire Mineral Local Plan Review, with other relevant documents listed at paragraph 5.2 of Mr Jones' evidence (CD/BAL-01.1).
- 1.36. The Planning Policy Statement of Common Ground (CD/17.13) records the position with respect to the emerging Minerals Plan, and the Local Plans being prepared for St Albans and Welwyn Hatfield.
- 1.37. None of those change the development plan status of the Appeal Site or the applicability of MLP3. There is a demonstrable need to grant planning permission for mineral extraction and Preferred Site 1 is intended to contribute towards this in the prevailing circumstances.

National Planning Policy Framework

- 1.38. The National Planning Policy Framework (the NPPF) is a material consideration in the determination of this appeal. The NPPF was amended in December 2024 and at that time the parties were invited to submit representations as to the effect of those changes on their respective cases. Core Documents INQ45 and INQ45.1, INQ45.2 and INQ45.3 provide these submissions. The Appellant does not consider that the 2024 NPPF alters the basis upon which the appeal should be determined.
- 1.39. More recently, the Government has consulted on further potential changes to the NPPF. Relevant extracts from the consultation document have been

included at CD/17.07. The Appellant and the MPA have addressed this in the Planning Policy SOCG (CD/17.13).

- 1.40. In neither instance do the changes that have been made or have been consulted on, alter the basis for the determination of this Appeal.

2 Revised Public Access Strategy and Phasing

- 2.1. The Public Access Strategy considered at the Inquiry is at CD/2.07.
- 2.2. Mr Mutch' Proof of Evidence (CD/BAL-07.1) describes that which was proposed and its origins via engagement with local stakeholders. Figure 3 therein provides a configuration of works relative to existing public rights of way and permissive routes formed since 2000.
- 2.3. The common ground that exists between the Appellant and the MPA on public access is set out most recently in CD/17.15. For convenience, the overall position of the MPA set out in Section 10 of that SOCG is reproduced below:

"It is agreed that the Revised Scheme would improve public access compared to the Original Scheme.

"It is agreed that the public access proposals in respect of the Original and Revised Schemes Options 1 and Options 2 are acceptable."

- 2.4. It is worth noting that the MPA has been satisfied with the public access proposals and it is instructive that initial reasons for refusal (since withdrawn in any event) did not concern public access.
- 2.5. In the following passages we:
 - (a) describe the proposed amendments to the Public Access Strategy and their benefits,
 - (b) consider the legal principles associated with *Wheatcroft* and *Holborn*;
 - (c) explain the rationale and reason for siting the lagoons;
 - (d) discuss the taxiway and how the existing east-west access would be maintained;
 - (e) address the term "unfettered access" which is used by certain respondents; and
 - (f) explain the approach to surface treatment and maintenance of paths.

Proposed Amendments to the Public Access Strategy

- 2.6. To address the current circumstance, the Appellant has prepared a revised Public Access Strategy. This is at CD/17.02.
- 2.7. The revised Public Access Strategy comprises two options:

Option 1: routes into and across the park if minerals are worked in the phasing sequence laid out in the Original Scheme – establishment works, Phases A, B, C, D, E, F and G, phased restoration and aftercare; and

Option 2: routes into and across the park amended to work the mineral phases in the amended sequence - establishment works, Phases A, B, C, **E, D**, F and G, phased restoration and aftercare.

- 2.8. The Appellant has prepared replacement phasing drawings showing further detail of the proposed working and public access during preparation, extraction and restoration operations for both Option 1 and Option 2. These are referenced HQ3/8S – HQ3/14S and HQ3/11B and HQ3/12B being the alternative plans for the reconfiguration of Phases D and E.
- 2.9. The Appellant favours the Option 2 sequence which ensures longer periods without interruptions to the two main east-west routes across the park. The Public Access SOCG (CD.17.15) confirms that the MPA agree with this. It is also notable that, whilst opposed to the principle of the proposed development, the Ramblers Association have expressed a preference of Option 2.

Comparisons with the 2023 Public Access Strategy

- 2.10. In comparison with CD/2.07, the principal alterations are explained below:
- (a) An additional public access route that bisects the upper and lower mineral lagoons that ties into the existing southern access to Ellenbrook Fields and the network of paths within the Appeal Site. This is shown in the Initial Site Establishment plan (HQ3/7S).
 - (b) Two additional permissive routes (one primary route and one secondary track) laid out in the Site Establishment Phase in the central part of the Appeal Site that improve east-west and north-south connections and movement. This is shown on the Initial Site Establishment plan (HQ3/7S).
 - (c) The southern multi-user path laid out initially as part of the establishment works is re-aligned to provide a more direct route east-west route once Phase A is restored. This is shown on Drawing HQ/9S onwards.
 - (d) Re-routing the northern multi-user route through what are phases D and E, so that there is a more direct east-west route. This route would be diverted around those phases to enable them to be worked and restored, and

repositioned thereafter. This is shown pages 19 to 24 of the Public Access Strategy, particularly insets 19 and 20 and 25 and 26.

- (e) Retaining to a greater extent public access within a phase but outside areas being prepared, worked or restored. This is shown on pages 10 and 11 of the Public Access Strategy.
 - (f) Retaining to a greater extent public access to land within the phase ahead of that which is subject to extraction operations. This is also shown on pages 10 and 11 of the Public Access Strategy.
 - (g) An adjustment to the sequencing of mineral extraction areas – to reverse phases D and E. This enables a greater extent of the retained or restored parkland aligned in an east – west direction. This is shown on Figure 2-1 of the “Addendum to the Environmental Statement 2024” (CD/17.5) and the individual phase drawings which illustrate public access across the perimeter seal.
 - (h) Rerouting the proposed path on the north side of Popefield Farm entirely on the northern side of the screen mound. This is shown on the Initial Site Establishment plan (HQ3/7S).
 - (i) The revised restoration plan (HQ3/15S) illustrates significantly more routes proposed within the restored landscape in comparison with HQ3/15R.
- 2.11. The revised Public Access Strategy will be supplemented by Public Access Schemes for each phase. Each scheme will require further detail to be submitted to and approved by the MPA. Various planning conditions control this; suggested conditions 9, 27 and 42 each refer to details of public access to be provided for approval.
- 2.12. In this context, the Public Access Strategy explains at various points that the drawn material therein represents indicative illustrations only and that the final path positions may be changed in consultation with Ellenbrook Park Trust and other community groups. In other words, the revised Public Access Strategy provides a broad approach upon which further layers of detail and adjustment can be added in due course.
- 2.13. The MPA agree that the public access proposals have been improved and that both Options are acceptable and do not constitute a reason to refuse planning permission (paragraph 10.5 of the Public Access Statement of Common Ground refers).

2.14. In overall terms therefore, the revised Public Access Strategy comprises the following:

- (a) Retention of the two existing points of access between the eastern and western parts of the parks throughout the life of the development.
- (b) A series of new bridleways to be laid out by the appellant, one of which is formed as part of the establishment works. These will be designed to accord with HCC standards and will be maintained by the Appellant in the first instance and thereafter the Trust following handover.
- (c) Two further multi-user routes aligned east-west to be laid out by the appellant. These will also be designed to accord with HCC standards and will be maintained by the Appellant in the first instance and thereafter the Trust following handover.
- (d) A collection of primary and secondary routes throughout the site to be laid out as part of the initial establishment works and re-routed to accommodate the sequence of mineral working and settled as part of the final restoration scheme as a comprehensive movement network.

Wheatcroft and Holborn

2.15. The alterations described do not represent material changes to the type and form of development for which planning permission is sought.

2.16. The legal principles in *Holborn Studios Limited v London Borough of Hackney*⁶, are not offended. These are concerned with (a) whether changes to a scheme result in the grant of permission for a development that is in substance different from that for which the application was initially made, and (b) procedural fairness in that interested persons may need to be afforded the opportunity to comment.

2.17. The changes described, which ostensibly involve additional or adjusted routes to those proposed initially within the Appeal Scheme, and a change in the sequence of two of the seven phases, do not result in a substantively different scheme. The predicted environmental effects assessed through the

⁶ [2017] EWHC 2823 (Admin)

environmental impact assessment process – as reported in CD/17.05 - are not materially different. As such the scheme is no different in substantive terms.

- 2.18. The Appellant has ensured that persons who might be affected by the changes proposed have been given the opportunity to make representations. This has ensured that no person has been prejudiced by this process. The legal principles in *Bernard Wheatcroft Ltd v Secretary of State for the Environment* are not offended.
- 2.19. Accordingly, the Appellant is firmly of the view that there is no legal impediment to the Inspector and in turn the Secretary of State considering the alterations proposed to the Appeal Scheme. Paragraphs 1.4.3 – 1.4.6 of the Public Access SOCG (CD/17.15) confirms this view to be shared by the MPA.

The Location of the Lagoons

- 2.20. Mr Mutch explains at CD/BAL-07.1 (paragraph 7.2) the lagoons are so located for hydrogeological reasons. This is also discussed at paragraph 4.1.20 of the Public Access SOCG (CD/17.15).
- 2.21. The Groundwater and Water Management and Monitoring Plan (GWWMMP) (CD/2.11 EIA Chapter 6 Appendix 6.10) explains the function of the Upper and Lower Mineral Lagoons; in essence the lagoons are required to accept and recharge shallow groundwater removed from the Upper Mineral Horizon (or Upper Mineral Aquifer) to facilitate mineral extraction.
- 2.22. It is important to stress that they do not, nor could they, function as *silt* lagoons; those are associated with the plant area. The visual appearance of the lagoons being discussed here are materially different from illustrations of silt lagoons that have been circulating in the public domain by objectors to the quarry.
- 2.23. There are a number of considerations that underpin why the lagoons are located on the eastern boundary of the Appeal Site.
- (a) Alignment with prevailing surface water and groundwater flow paths. The lagoons are located on the downstream side of the surface and groundwater flow paths. The head difference between the surface water level and the groundwater table is as great as possible to enable the highest possible rate of infiltration of water from the lagoon into the aquifer.
 - (b) Separation from the Bromate plume. Whilst the bromate plume is located some 100m northeast of the mineral extraction area, the lagoons will

nevertheless serve as a hydraulic barrier, limiting the potential for the plume to migrate in a southerly direction towards the quarry and any potential disturbance.

- (c) Alternative locations are less beneficial. The lagoons were initially proposed in the southern part the Appeal Site, near Popefield Farm. However following consultation with the Environment Agency in 2014, the current location was considered by the respective groundwater experts to represent the optimum location for the lagoons. Amongst the reasons for the Environment Agency to favour this location was the hydraulic barrier function described in (b).
- (d) Surface water flood alleviation. Evidence to the 2024 Inquiry demonstrated that the proposed lagoon placement provides flood risk alleviation during both the operational phase and after restoration. CD/BAL-10.1 (paragraphs 4.2 and 4.5 refer).
- (e) The principle of water bodies as part of the scheme. This principle is established in the Hatfield Aerodrome Supplementary Planning Guidance (CD/3.03). Therein, paragraphs 9.9, 9.13, 9.14, 9.30 all refer to the inclusion of water features. Figure 7 the *Landscape Masterplan* (page 31) illustrates the location of a lake in the restored scheme. The location of the lagoons mirrors this.

2.24. Figure 7 of the SPG is reproduced at *Appendix 3*.

2.25. In the context of the above considerations, the lagoons are appropriately located for environmental reasons.

2.26. It is acknowledged that the location of the lagoons appears to have - in plan form - the effect of separating the unaffected part of Ellenbrook Park and the restored phases. This gives rise to a perception of interrupting east-west public access.

2.27. That plan form perception does not reflect the position on the ground. There is an enclosed field parcel used for livestock grazing immediately to the west of the Appeal Site that in fact restricts access through the park at the location. This is described in paragraph 4.2.3 of the Public Access SOCG (CD/17.15) and is illustrated on page 3 therein.

- 2.28. This enclosed grazing field, which is a use acknowledged in the SPG (paragraph 9.30), was at the time of the 2024 Inquiry sited a short distance east from its current position, and in the location where the lagoons are proposed. The practical effect of this was that east-west public access through the area occupied by the lagoons was not possible. Assertions that the lagoons would interrupt current east-west movement are not correct.
- 2.29. East-west access from the minerals site into the park to the east exists principally in two locations, as shown on the plan at page 3 of the Public Access SOCG (CD/17.15). Neither of these routes would be adversely affected. There is no diminution in east-west access.
- 2.30. It is important to remember that the extent of the identified Preferred Area allocated in the MLP and reflected in the SPG was much greater in extent. The land to the east of the Appeal Site was expected to form part of a larger mineral development in comparison with that which this Appeal is concerned with. Had the Appeal Site covered the full extent of the Preferred Area, greater disruption to public access would have occurred including public access points.
- 2.31. Reflecting the principles in the SPG (CD3.03), the lagoons will represent a feature of the development for the lifetime of the mineral extraction operations and as part of the restoration scheme. The landscape masterplan at Figure 7 of the SPG intends that a waterbody be sited in this location with routes to the north and south of it forming a circular route within the parkland to the west. The Appeal Site is consistent with the SPG both as a matter of principle and approach and the physical integration of the two components of the park is achieved around the waterbody.
- 2.32. Whilst this feature limits any greater extent of physical integration, that is as a direct consequence of the hydrogeological circumstance to which the SPG refers.
- 2.33. In other words, the much needed mineral resource could not be worked without those features in that location.
- 2.34. In turn, if this is perceived as an adverse effect of the Appeal Scheme it is a matter that has to be placed in the planning balance alongside the many positive benefits of the quarrying which attracts great weight in the determination of this appeal. To the extent this is a disbenefit, it should not be determinative.

- 2.35. Moreover, that exercise must be undertaken holistically. In comparison with the SPG's landscape masterplan, because there are in fact less waterbodies overall, the Appellant's restoration scheme provides a far greater extent of publicly accessible greenspace available incrementally as the worked phases are restored. This is a countervailing public benefit.

The former Taxiway

- 2.36. A common theme in the representations received to the revised Public Access Strategy is that the current remnants of the taxiway will be disrupted and lost as a route within the park.
- 2.37. The former taxiway is a physical feature extending from Ellenbrook Linear Park/Albatross Way westward through Ellenbrook Fields and part way into the Appeal Site. It acts as the only current multi-use route within the park but is not a complete east-west or circular route. It is not an adopted public right of way or a surface feature that the SPG expects to be retained .
- 2.38. It is visible on Mr Holliday's aerial photographs at Appendix 3 (CD/BAL-05.2) but should not be mistaken with the runway which was been removed some time ago.
- 2.39. The revised Public Access Strategy (CD/17.02) retains the route of the taxiway for a longer period of time than is the case with the Original Scheme. The following can be observed from insets 1 – 9 on pages 19 and 20 of the revised Public Access Strategy.
- 2.40. The entrance through the eastern bund beside the lagoons has been moved to align better with the taxiway to the east. (inset 1)
- 2.41. The existing taxiway in Phase A will remain open with a crossing point over the clay seal exiting Phase A. (inset 2)
- 2.42. The taxiway is removed as mineral working occurs within Phase A with a temporary path being available around the south of this Phase. This will be in place for around 4 or 5 years. (inset 5, 6, 7 and 8)
- 2.43. The southern multi-user route from Notcutts will run across the site to the western edge of Phase A giving improved multi-user access from the west across the southern area (all insets).

- 2.44. This multi-user route across the south will be extended across Phase A as that phase is restored and will then remain in place (inset 9).
- 2.45. To the extent that the taxiway serves as part of a meaningful existing east-west corridor, this function is essentially retained and enhanced with the connection to the southern multi-user route, apart from a short duration while Phase A is worked, at which point alternative routes are still available. Any impact would be temporary and not significant. Once Phase A is worked, a new multi-user path would extend from Albatross Way to Notcutts; this contrasts with the current situation.

Unfettered Access

- 2.46. A number of representations refer to the term “*unfettered access*”. That is not a term that the MLP or the SPG employ. It is not the standard against which the public access strategy should be measured. To do so would be to misapply the terms of the MLP, the SPG and the 2000 agreement which anticipate restrictions on access while the mineral is being worked.
- 2.47. One representation refers to a direction from the Inspector that “cross park access must remain convenient, attractive and unfettered”. From the available correspondence, the Appellant is not aware of this expression having been used.
- 2.48. The term unfettered access is employed in Condition 27(i), but that has to be read and understood in the context of that criterion. Namely, that it does not apply to specific areas that are listed, including for example areas where mineral working, processing and restoration is taking place or areas where public access is prohibited in order to protect public safety. Those are important qualification that are consistent with Clause 4.88I of the 2000 agreement as amended by the DOV (see paragraph 5.14).
- 2.49. It can be understood from the Public Access SOCG (CDI7.15) that the MPA consider that public access is not disrupted to an unreasonable extent. “Unreasonable affect” is the measure which the SPG refers to in judging the balance between minerals and amenity.

Surface Treatment

- 2.50. Certain representations question the surface treatment of the routes and paths that are proposed. In some instances, they assert that what is proposed will descend into “muddy paths”.

- 2.51. Condition 27 is concerned with the phased delivery of public rights of way and public access schemes. This requires the Appellant to seek approval from the MPA for detailed Public Access Schemes for each phase of the development in due course.
- 2.52. Each scheme is required to include a written statement along with route plans and cross section drawings showing the detailed design and construction of the paths, bridleways and cycleways.
- 2.53. As part of the each of these schemes, details will be approved for the surfacing of path, bridleways and cycleways. Such details will need to accord with the construction and surface treatment specification required by the Hertfordshire County Council Rights of Way Good Practice Guidance.
- 2.54. Moreover, the paths, bridleways and cycleways shall be maintained in the approved condition for the lifetime of the development.
- 2.55. The above control measures ensure that the routes are constructed to an appropriate standard and maintained thereafter. The MPA will be able to enforce against any breach of this condition.

Conclusion

- 2.56. The above has demonstrated that the revised Public Access Strategy provides meaningful east-west access across the Appeal Site and into the Ellenbrook Fields to the east. It retains the two principal points of access from the land to the east into the Appeal Site – one in the south via the taxiway and one in the north close to Home Covert. A range of routes are proposed that connect to these two points, notably two multi-user routes that would extend connectivity through and to the western boundary of the Appeal Site and the footpath network in that location. Whilst certain of those routes will be re-routed from time to time during the life of the development, that does not diminish their utility.
- 2.57. It has been demonstrated that the lagoons are a wholly necessary part of the development and are appropriately located to perform their various hydrogeological and hydrological functions. The Public Access Strategy has accommodated these features with movement permissible around them and now between them. Their effect on public access is consistent with the SPG's principles and objectives. In the Appellant's opinion, when seen in the context of the project overall and its important benefits, the Public Access Strategy does

not unreasonably affect public amenity. It is evident from the Public Access SOCG (CD/17.15) and elsewhere that the MPA agree with this.

2.58. In the following section, we demonstrate how the Appeal Scheme with the Public Access Strategy accords with Mineral Local Plan Policy 18(x).

3 Minerals Policy 18(x)

- 3.1. Section 5 of Mr Jones' evidence discusses the development plan (CD/BAL-01.1). Paragraph 5.6 onwards concerns the Minerals Local Plan and its relevant policies. It is a long-established principle of planning law that the development plan must be read as a whole.
- 3.2. Minerals Policy 3 concerns the supply of minerals during the plan period and beyond. It refers to three Preferred Areas for future mineral working. Preferred Area 1 is land at former British Aerospace, Hatfield, which includes the Appeal Site but in fact comprises a far larger area. CD/17.08 includes Inset Map 6 which identifies the extent of Preferred Area No.1. The Appeal Scheme proposes to work (and affect public access) on only part of the Preferred Area. As such, public access will be affected across a smaller area that was originally expected in the MLP.
- 3.3. Minerals Policy 3 sets out the specific criteria for determining the grant of planning permission for mineral working at the Preferred Areas, namely:
 - (a) They contribute to maintaining the County's appropriate contribution to local, regional and national aggregate needs, including the maintenance of a landbank in accordance with Mineral Policy 1; and
 - (b) the application satisfactorily fulfils the requirements of the Proposals for that Preferred Area as identified on what is termed the Inset Maps.
- 3.4. The Appellant and the MPA agree that there is a need for aggregate, pursuant to criterion (a) and no point is taken by the MPA in relation to criterion (b). The need is now greater than it was at the time of the 2024 Inquiry; an additional years' worth of minerals have been deducted from the landbank since December 2024 and no new mineral permissions have been granted.
- 3.5. Other policies concern various environmental considerations, such as biodiversity, landscape, reclamation and after-use, transport and cumulative effects. Minerals Policy 17 provides criteria for the control of mineral development to protect critical capital and environmental assets.
- 3.6. Minerals Policy 18 provides criteria to ensure that mineral extraction takes place in a planned and orderly fashion, whilst minimising any adverse environmental

effects. Its various considerations are discussed on pages 40 - 42 of Mr Jones' evidence (CD/BAL-01.1).

- 3.7. Pausing here, Minerals Policy 18 must be read together with Minerals Policy 3, the Site Brief, and the specific Supplementary Planning Guidance (SPG, CD3.03) to which the Site Brief (Inset Maps) refers. The SPG anticipates mineral workings on the Appeal Site and the temporary exclusion of public access from areas that are being worked.

Minerals Policy 18(x)

- 3.8. Criterion (x), which is referred to in the Secretary of State's correspondence, states:

All proposals for mineral extraction and related development shall, where appropriate:

.....

ensure that public rights of way are not adversely affected, or where this is not possible, ensuring that good quality, safe, convenient temporary alternative provision is made with long term reinstatement or suitable replacement rights of way is secured. The use of rights of way to obtain vehicle access to a site will not be permitted unless it can be clearly demonstrated that the safety of rights of way users can be adequately protected. Proposals should enhance the public rights of way network through the creation of new rights of way and/or open space, or the improvement of public access;

- 3.9. This criterion comprises two relevant parts: the *first* to protect existing public rights of way and where necessary provide suitable temporary alternative routes; and the *second* to encourage new routes or improved public access.
- 3.10. In this appeal, existing public rights of way are not used to obtain vehicular access and that passage is not relevant.
- 3.11. The following explains why the revised Public Access Strategy is wholly appropriate in the context of Minerals Policy 18 criterion (x).

Existing Public Rights of Way

- 3.12. The public rights of way that adjoin or cross the Appeal Site are shown Figure 3 of Mr Holliday's Appendices (CD/BAL-05.2).⁷ They are described in paragraphs 7.8 to 7.13 of Mr Holliday's evidence (CD/BAL-05.1). These cross the site generally in a north-south alignment. They do not serve as direct or convenient routes between Smallford and Salisbury Village.
- 3.13. Footpath 62 which is astride the site's western boundary is to remain on its current alignment. It would be set within a green corridor along the site boundary as shown on drawing HQ3/7S.
- 3.14. Sections of Footpath 14 and 15 are to be diverted to avoid the plant area, as shown on plan HQ 3/7S. The temporary realignment measures almost the same in length (c650m). The route as a whole would be set within a green corridor along the site boundary. The details of those routes (and their quality and safety) would be determined pursuant to Condition 27. The diverted sections would be re-instated as shown on plan HQ3/15S.
- 3.15. Other than these sections of Footpath 14 and 15, no other re-routing of public rights of way occurs.
- 3.16. In these terms, the Appeal Scheme ensures that retained public rights of way are not adversely affected whilst ensuring good quality, safe, convenient temporary alternative provision is made in two necessary instances with long term reinstatement. This accords with Policy MLP18(x) (part one).

Existing Informal Permissive Routes

- 3.17. Under the permissive access that has been available across the Appeal Site since 2010, informal routes have been formed. These are visible at BAL-05.2 Appendix

7

1. Footpath 15 which adjoins the western boundary and extension north and then east.
2. Footpath 14 which extends northwards from footpath 15
3. Bridleway 63 which extends from Oaklands Lane to the western boundary of the site and connects with footpath 15 towards Coopers Green Lane
4. Footpath 67 which extends from Oaklands Lane along Jove Gardens to the western boundary of the site and connects with footpath 15
5. Footpath 62 which links Footpath 15 toward Footpath 1 which extend from Oakland Lane to Cooper Green Lane.

3 page 22. The propensity of use is shown on CHG plan at CD15.7 page 3. This identifies two primary east-west routes.

- 3.18. The first part of MLP18(x) (*"Ensuring that public rights of way are not adversely affected, or where this is not possible, ensuring that good quality, safe, convenient temporary alternative provision is made with long term reinstatement or suitable replacement rights of way is secured"*) relates to public rights of way specifically rather than to informal permissive routes.
- 3.19. MLP18 does not specify that informal cross park routes between Smallford and Salisbury Village must be retained.
- 3.20. Nonetheless, and while not a requirement of policy, the Original Scheme and the Revised Scheme would provide for good quality, safe, convenient temporary alternative informal provision during periods when existing informal east-west routes are closed for mineral working. The extent of routes is shown on Plans CD/17-03-01 through to CD/17-03-15 (Option 1) and CD/17-04-01 through to CD/17-04-15 (Option 2).

Public Access Improvements

- 3.21. MLP18(x) part 2 states that "proposals should enhance the public rights of way network through the creation of new rights of way and/or open space, or the improvement of public access."
- 3.22. By way of the Public Access Strategy, the Original Scheme and the Revised Scheme propose the creation of new public access routes both during the period of mineral operations and following restoration in individual phases and as a whole. This represents an extensive network, comprised of multi-user paths, bridleways and permissive footpaths.
- 3.23. The revisions to the Public Access Strategy are described in paragraph 2.10 and the separate Statement of Common Ground (CD/17.15).
- 3.24. It is notable that in comparison with the original phasing drawings, the revised proposals illustrate how a greater extent of public access is retained to land within the phase ahead of that which is subject to extraction operations. For example, as shown on Inset 3 of page 19 of the revised Public Access Strategy, public access to Phase A is retained ahead of what is termed the working area.

- 3.25. Moreover, whilst preparation works need to occur in the phase ahead of the working phase, with the formation of a perimeter or clay seal, it is possible to retain public access to all other land within the future phase. This is shown by way of example on drawing CD/17-03-03.
- 3.26. A means of access across the perimeter seal can be formed so that it is no longer necessary to exclude public access to two complete phases, as would have been the case with the original working scheme and Condition 12.
- 3.27. In these terms, the Revised Public Access scheme is beneficial in retaining public access over the life of the mineral extraction with associated enhancement in the network of routes and the creation of restored parkland, in accordance with Policy MLP18(x) (part two).

Adjustments to Scheme Phasing

- 3.28. Revised Scheme Option 2 intends that the sequence of mineral extraction across the working area is adjusted – reversing the order of phases D and E. The practical effect of this alteration is to enable east-west connectivity to be retained and reinstated with lesser interruption to that movement. This is evident from contrasting CD/17-03-11 and CD/17-04-12; such movement is retained *firstly* through phases D, F and G, and then *secondly*, through phases C and E.
- 3.29. As the phasing drawings illustrate, proceeding from Phase C to Phase E retains public access to and through Phases D, F and G. Conversely, when mineral extraction is occurring in Phase D, F and G, public access and east-west movement will have been restored to phases C and E. Uninterrupted east-west movement is therefore greater under Option 2.

Other Routes Outside the Appeal Site

- 3.30. Other routes have or will be laid out within Ellenbrook Park, outside of the Appeal Site, pursuant to the Landscape Management Document (Appendix F to the Deed of Variation dated 20 December 2024 (INQ43 and 43.1)). Those routes are not affected by the Public Access Strategy.

Hatfield Aerodrome Supplementary Planning Guidance

- 3.31. Whilst not part of the development plan, the MLP's Site Brief for Preferred Area 1 cross refers to the SPG under the heading Specific Considerations.

- 3.32. The paragraphs that relate to public access and mineral extraction in the SPG are at 9.26-9.32. Paragraph 9.27 states that:

This SPG needs to ensure that the surface development proposals do not unreasonably affect the future extraction of minerals from the Preferred Area and that the amenity of the future development proposals will not be unreasonably affected in the event that minerals are extracted. In determining future minerals applications, the County Council will need to strike a balance between:

Maximising the use of mineral resource.

Protecting the amenity of existing residents at Ellenbrook and Smallford and other existing occupiers/users.

Protecting the amenity of existing and proposed development on the FDL.

- 3.33. The SPG envisages that there will be impacts on amenity, and that a balance should be struck between those and maximising the use of mineral resource. The test that the SPG applies is whether, alongside the important mineral extraction, amenity is “unreasonably” affected (whilst maximising the use of the mineral resource).
- 3.34. Paragraph 9.28 explains that it is likely that reserves at the eastern part of the preferred area should be worked first.
- 3.35. Paragraph 9.30 explains that on restoration any residual water bodies should be integrated into the pattern of the new landscape. The overall approach should ensure that this area will play a positive role in promoting improvements to the visual quality of the landscape, its biodiversity and a public amenity resource. The conversion of the lagoons to a permanent waterbody is consistent with the second of the listed principles and other references including Figure 7 referred to earlier.
- 3.36. Public access within Ellenbrook Park, encouraged by paragraph 9.32 (first criterion), has already been achieved. The Appeal Scheme would provide continuous routes as part of the initial site establishment works.
- 3.37. Paragraph 9.32 (fifth criterion) provides for selective opening up of areas to public access as mineral restoration is completed and suitable periods of aftercare are undertaken. The tenth criterion requires, after mineral extraction, completion of pedestrian and cycle links and opening up of remaining areas to public access. The phase restoration scheme would provide routes that connect

to the existing paths and the Minerals S106 agreement includes obligations for the phased delivery of bridleways.

- 3.38. The final part paragraph of 9.32 explains that public rights of way or other public access may not be established on a permanent basis until mineral extraction has taken place and the land restored.
- 3.39. The Original Scheme accords with the land use, landscape, habitat, water environment, amenity and public access principles of the SPG.
- 3.40. The Revised Scheme also accords with the land use, landscape, habitat, water environment, amenity and public access principles of the SPG.
- 3.41. The restoration scheme will similarly achieve the principles listed under this paragraph. The 2000 Agreement already secures the Trust to take responsibility for the maintenance and management of the open areas also referenced in these principles.
- 3.42. It is notable that at points the SPG is referring to how the Ellenbrook Linear Park should be integrated within the overall scheme. Ellenbrook Linear Park is the corridor area immediately west of the built-up area. It is not part of the Preferred Area nor the Appeal Scheme. Ellenbrook Linear Park is also separate from Ellenbrook Fields in the terms set out in the Landscape Management Document (Minerals) (Schedule 23 Part 1 to the 2000 Agreement (as amended) (CD17.11); also at Appendix G to the 2024 Deed of Variation (INQ43)). The integration of Ellenbrook Linear Park and Ellenbrook Fields is already established and is not directly affected by the Appeal Scheme.

Benefits of the Appeal Scheme's Public Access Strategy

- 3.43. Having regard to the above, the revised Public Access Strategy and Restoration Plan(s), listed below are some of the benefits which are delivered during and after the development as long term legacy to area:
 - (a) A car park on the western side of the park for visitors to park with improvements to the A1057;
 - (b) Improved crossing point of A1057 with pedestrian refuge;
 - (c) Widening of footpath on A1057;
 - (d) Three multi-user routes crossing the site for a wide range of users including cyclists, horse riders etc;
 - (e) Improved commuting across the park avoiding the A1057;

- (f) A number of new dedicated bridleways;
- (g) The newly formed lake created as part of the restoration, where the lagoons will have been located, will act as a balancing lake and reduce flood risk down stream compared to the flood risk in the area that currently exists;
- (h) Waterbodies increasing biodiversity;
- (i) Creation of permanent Great Crested Newt ponds and habitat from the outset;
- (j) Improved biodiversity by the creation of a wider mosaic of grasslands, hedgerows, woodland and habitats;
- (k) Maintaining a large open space for ongoing use by local people, pending handover to the Trust;
- (l) The lasting legacy of an improved country park (by reference to the landscape and access requirements of the 2000 Agreement and LMDs) for generations to come.

3.44. In addition to the above are the social and economic benefits that occur from maximising mineral extraction at a site identified for this purpose in the development plan. These are expressed in the evidence Mr Lowden and Mr Jones at the Inquiry and the Appellant's closing submissions (INQ-41, paragraphs 130-133).

Conclusion

3.45. The above analysis demonstrates that the Appeal Scheme accords with Policy MLP18(x).

3.46. The existing public rights of way are for the most part retained. In two instances, which coincide with the plant area, sections of FP14 and FP15 are to be diverted for a temporary period before being reinstated as part of the restoration scheme. The diversions proposed, on the outer edge of the site and screened from the plant area represent good quality, safe and convenient routes.

3.47. Under the permissive access that has been available across the Appeal Site since 2010, informal routes have been formed. MLP18 does not specify that informal cross park routes between Smallford and Salisbury Village must be retained. Indeed, the 2000 s106 agreement provides for public access to be excluded when minerals are being extracted pursuant to a planning permission on this land. The SPG further acknowledges that public access would be excluded from mineral working areas with selective opening up of areas to public access as

mineral restoration is completed and suitable periods of aftercare undertaken. The appeal scheme is founded on this principle. The Appellant and the MPA agree that the Original Public Access Strategy satisfied this principle.

- 3.48. The Revised Public Access Strategy represents an enhanced scheme in these terms. The measures listed in paragraph 2.10 are extensive and amount to a comprehensive movement network that retains the existing east-west access points and provides many additional routes both north-south and east-west to enable cross park movement.
- 3.49. Integration of the component parts are evident from the retained and restored elements illustrated on the sequence of phasing plans. The lagoons, necessarily sited for hydrogeological reasons, do not result in any greater restriction on east-west access because that is constrained by the existing fenced livestock enclosure. In due course a waterbody entirely consistent with the landscape framework intended by the SPG will be constructed that is integrated with its surroundings as a whole, but the existing principal points of movement south and north of this feature are retained.
- 3.50. Through both the incremental restoration of phases and the implementation of the final restoration plan a landscape will be created that will play a positive role in promoting improvements to the visual amenity of the landscape, biodiversity, and a public amenity resource.
- 3.51. As required by the SPG, the Appeal Scheme strikes a balance between maximising the use of mineral resource, protecting the amenity of existing residents and other occupiers which would include users of the park.
- 3.52. For these reasons, the revised Public Access Strategy (Option 1 and Option 2) accords with Minerals Local Plan Policy 18(x).

4 Planning Conditions

- 4.1. The Appellant has considered the effect its proposals on the current list of suggested planning conditions that were submitted by the main parties as part of the 2024 Inquiry.⁸
- 4.2. Condition 4 lists what were to be approved drawings. To give effect to the revised Public Access Strategy, that list would be amended to correspond to those considered at the present time.
- 4.3. Where drawings listed in Condition 4 are referenced in other later conditions, those references would similarly be amended.
- 4.4. The Appellant is similarly proposing changes to the following conditions:
 - (a) Condition 9 Phase Working Plan
 - (b) Condition 12 Exclusion of Public Access to Phases
 - (c) Condition 27 Phased delivery of public access
- 4.5. These proposed amendments are discussed in the following paragraphs.

Condition 9

- 4.6. Condition 9 regulates the detail of what is termed the Phase Working Plan. It requires, prior to the commencement of mineral extraction in each phase, detailed working plans for that phase to be submitted to and approved by the Minerals Planning Authority.
- 4.7. Criterion vii already required details of public rights of way within the phase to be submitted for approval. To ensure the principles of the Public Access Strategy are carried through the Appellant proposes to extend this criterion as follows:

Details of crossing points for rights of way, including any means of access and egress across the perimeter (clay) seal(s), drainage features and bunds.

⁸ INQ/43-3

Condition 12

- 4.8. Condition 12, consistent with the SPG, permits the exclusion of public access from phases of the development. The Appellant has also considered the practical effect of this condition alongside its revised phasing and Public Access Strategy. It is no longer considered necessary to exclude public access from two phases.
- 4.9. Public access to all land within the phase ahead of the working phase can be maintained except for those areas where the perimeter seal is being formed as shown on the individual phasing drawings. This is illustrated on pages 10 and 11 of the revised Public Access Strategy. The Appellant therefore proposed that Condition 12 is amended to read as follows:

"No more than 1 phase shall be entirely closed to the public at any one time."

- 4.10. This was not acceptable to CHG and the Appellant is reconsidering an appropriate revision to Condition 12.

Condition 27

- 4.11. Condition 27 concerns the phased delivery of rights of way and public access. It requires, prior to the commencement of mineral extraction in each Phase, a Public Access Scheme to be submitted to and approved by the Minerals Planning Authority. Such a scheme should *inter alia* include a written statement along with route plans and cross section drawings showing the detailed design and construction of all paths, bridleways and cycleways, including the primary routes and public rights of way. Together with other changes, the Appellant, the MPA and CHG have agreed that a further criterion is added to this Condition to require each phase's public access scheme to include:

(viii) details of east-west public access across the site during the life of the development and integration of restored phases into the unaffected Ellenbrook Park to the east of the site before the final completion of the mineral operation.

- 4.12. A consolidated version of the three above conditions are provided in *Appendix 4*.
- 4.13. The Appellant will continue to discuss the wording on conditions with the MPA and others and will provide a complete set of suggested conditions ahead of the re-opened inquiry.

5 The 2000 Agreement and the 2024 Deed of Variation

- 5.1. The Secretary of State's correspondence invites comments on the potential effect of Condition 4a or other proposals on the 2000 Agreement and the 2024 Deed of Variation.
- 5.2. For the reasons given below, the Revised Scheme does not give rise to any conflict with the 2000 Agreement as varied by the 2024 DoV. There would be no need to amend the 2000 Agreement (as varied by the 2024 Agreement).

Background

- 5.3. On 29 December 2000, Welwyn Hatfield Borough Council (then known as Welwyn Hatfield District Council) (WHBC), Hertfordshire County Council (HCC), City and District of St Albans District Council (SADC), BAe Systems plc (BAe), Arlington Property Developments Limited, The University of Hertfordshire Higher Education Corporation and Hatfield Business Park Limited entered into an agreement under s106 of the Town and Country Planning Act 1990 in connection with the redevelopment of the Hatfield Aerodrome for inter alia a business park, housing, a new university campus, hotels, a primary school, a district centre and an Aviation Heritage Centre, together with associated infrastructure, landscaping and open space, diversion of the Ellenbrook (2000 Agreement) (CD13.1 and 13.1A).
- 5.4. A Deed of Variation of the 2000 Agreement between the landowner, Advanced Research Clusters GP Limited (as general partner of ARC 1 Limited Partnership) (ARC), BAE Systems plc, the Appellant, HCC, WHBC and SADC was completed on 20 December 2024 (2024 DoV) (INQ43 and 43.1), with specific reference to the following clauses of the 2000 Agreement:
- Clauses 4.81-4.88 relating to "Ellenbrook Park"
 - Clause 4.90 relating to "Rights of Way" and
 - Clauses 4.127 and 4.128 relating to "Restrictions on Uses".

Effect and Operation of the 2024 DoV

- 5.5. The 2024 Deed of Variation has a definition of Minerals Land by reference to a plan which shows the area of what is now the Appeal Site and a definition of

Minerals Works which includes mineral extraction, processing and restoration together with all ancillary and/or incidental or associated operations.

- 5.6. The 2024 DOV amended the 2000 Agreement with immediate effect (Clause 3.1).
- 5.7. Extracts of the 2000 Agreement showing the amendments made by the 2024 DoV to the text of the 2000 Agreement are at CD17.11.
- 5.8. Clause 5.5 of the 2024 DoV provides for Clauses 4.81-4.88 of the 2000 Agreement to be deleted and replaced by the clauses also numbered from 4.81 to 4.88 (but with additional numbering within) set out in the 2024 DoV.
- 5.9. Clauses 4.81 and 4.82 inserted by the 2024 DoV contain an obligation to carry out and complete the Establishment Works in accordance with the Landscape Management Document (Minerals) (LMD(M)) by the end of June 2029, unless the minerals planning permission is not granted, in which case the Establishment Works shall be carried out in accordance with the Landscape Management Document (No Minerals) (LMD(NM)).
- 5.10. The Establishment Works are defined as being “in broad accordance with” the Landscape Framework Document, with the 12 page document comprising text and figures attached to the original 2000 Agreement replaced by the drawing number 1183-G502 Rev G entitled 'FIGURE 4 Management Areas Plan' attached to the 2024 DoV.
- 5.11. The original 2000 Agreement required a Landscape Management Document based on the principles in the Landscape Framework Document to be submitted and approved (previous clause 4.81). Work on that document had been ongoing simultaneously with the application for the minerals planning permission and the requirement for submission and approval was superseded by the LMD(M) and LMD(NM) (together the LMDs) at Appendix G to the 2024 DoV. These documents have been approved by WHBC, SADC and HCC. They each have the same 4 appendices (1-4). They also have a set of figures, some of which are common to both.
- 5.12. LMD(M) has Figures 17 and 20 as indicative drawings. Figure 17 relates to the Southern Fields (being the Mineral Land) and is entitled “Proposed Establishment Works – Before Commencement of Minerals and Indicative Early Minerals Phases” and Figure 20 is the “Illustrative Landscape Management

Plan”, showing an “illustrative masterplan for whole of Ellenbrook site area during initial extraction phase.” These were not up to date with public access as agreed at the date of the Inquiry in 2024 and the LMD(M) is clear that they are indicative and that the mineral planning permission governs what happens during the mineral operation:

The minerals planning permission and related Section 106 Agreement will identify the approved drawings and phases for the minerals development and require the approval of schemes to secure: (i) the completion of landscaping; and (ii) the provision of public access during the course of the minerals development. Together, the minerals planning permission and related Section 106 Agreement govern such matters once the minerals planning permission has been implemented and, insofar as it relates to the Southern Fields, this LMD must be read alongside (and is subject to) these approved documents. (Page 24)

- 5.13. Clause 4.87 inserted by the DoV applies to the Minerals Land, requiring its management and maintenance, in the same way as it does to the Non-Minerals Land (see paragraph 5.9 above), but the clause provides that this obligation does not prevent the minerals development from proceeding in accordance with the minerals planning permission.
- 5.14. Clause 4.88l inserted by the DoV, provides, following grant of the mineral lease, that public access is maintained across all parts of the Minerals Land that are not subject to Minerals Works in accordance with the principles of Clause 4.87. Minerals Works are extraction, processing, restoration and all ancillary, incidental or associated operations.
- 5.15. Clauses 4.90 is amended to refer to laying out footpaths, cycleways and/or bridleways in accordance with the LMDs and the minerals planning permission.
- 5.16. Clause 8.5 provides that Mineral Works in accordance with the Mineral Planning Permission shall suspend the requirement for compliance with the obligations of the 2000 Agreement (as varied by the 2024 DoV).

Minerals Section 106 Agreement Dated 19 December 2024

- 5.17. A planning obligation between the landowner, Advanced Research Clusters GP Limited (as general partner of ARC 1 Limited Partnership) (ARC), the Appellant and HCC was completed on 19 December 2024 (Minerals S106) (INQ3.1).

5.18. The Minerals S106 is conditional on the grant of the minerals planning permission (Clause 4). It provides that is not intended to supersede amend or otherwise impact the 2000 Agreement (including as varied) (Clause 9).

5.19. Its obligations include (in relation to public access):

- (a) An obligation not to commence the development until works for the proposed new site access and improved pedestrian facilities (widening of existing footway) along the A1057 to assist pedestrian links between the site and the Alban Way have been completed;
- (b) An obligation to construct the Initial Bridleway (as defined with it) within 1 year of commencement of the development in accordance with the specifications set out in the HCC Rights of Way NMR Guide (and associated provisions for an agreement to facilitate construction and dedication, as well as maintenance until expiry of the aftercare period);
- (c) An obligation, on restoration of any part of the site, to construct such of the Bridleways 1-7 (in accordance with the specifications set out in the HCC Rights of Way NMR Guide) as are safe for public access (and associated provisions for an agreement to facilitate construction and dedication, as well as maintenance until expiry of the aftercare period).

5.20. The Revised Scheme does not propose any changes to the public access provisions of the Minerals S106. Both the Public Access Strategy February 2026 and the replacement phasing drawings incorporate the Initial Bridleway and the Bridleways 1-7. The drawings relating to the proposed new site access are as per the Original Scheme.

The Original Scheme

5.21. The 2000 Agreement as varied by the 2024 DoV allows for Minerals Works to take place on the Minerals Land. It provides for public access to the Minerals Land to be controlled by the documents approved under the minerals planning permission during the Mineral Works (i.e. to be controlled by any approved public access and landscaping schemes). The LMD (M) on which the 2000 Agreement (as varied by the 2024 DoV) relies for the detail of the landscape works required defers to the mineral planning permission in respect of the Mineral Land whilst the mineral development is ongoing.

5.22. Accordingly, were the Original Scheme to be granted planning permission, that would not give rise to any conflict with the 2000 Agreement as varied by the 2024 DoV.

5.23. The Minerals S106 was completed on the basis of the Original Scheme. Were the Original Scheme to be granted planning permission, that would not give rise to any conflict with the Minerals S106.

The Revised Scheme

5.24. Similarly, were the Revised Scheme to be granted planning permission, that would not give rise to any conflict with the 2000 Agreement as varied by the 2024 DoV.

5.25. There does not need to be a further variation of the 2000 Agreement as a result of the Revised Scheme because the 2000 Agreement (as varied by the 2024 Agreement) provides that the minerals planning permission regulates the management of the Minerals Land whilst Minerals Works are ongoing, including public access to it.

5.26. The Revised Scheme does not propose any changes to the public access provisions of the Minerals S106. Were the Revised Scheme to be granted planning permission, that would not give rise to any conflict with the Minerals S106. There does not need be any variation of the Minerals S106.

6 Conclusion

- 6.1. The Appellant contends that planning permission should be granted for the proposed development for the many reasons set out in INQ-41. The fundamental tenets of those submissions remain.
- 6.2. Having received the Secretary of State's letter of the 11th November 2025, the Appellant has considered carefully the available correspondence, and what it understands to be the concerns that underpin the Inspector's recommendation in this regard, and also the purpose of Condition 4a.
- 6.3. It has sought to address these matters by:
- (a) providing additional information about public access,
 - (b) proposing adjustments to the Public Access Strategy and phasing plans; and
 - (c) proposing modified conditions.
- 6.4. The Revised Scheme comprises the following principal elements:
- (a) An additional public access route that bisects the upper and lower mineral lagoons that ties into the existing southern access to Ellenbrook Fields and the network of paths within the Appeal Site. This is shown in the Initial Site Establishment (HQ3/7S).
 - (b) Two additional permissive routes (one primary route and one secondary track) laid out in the Site Establishment Phase in the central part of the Appeal Site, that improve east-west and north-south connections and movement. This is shown on the Initial Site Establishment plan (HQ3/7S).
 - (c) The southern multi-user path laid out initially as part of the establishment works is re-aligned to provide a more direct east-west route once Phase A is restored. This is shown on Drawing HQ/9S onwards.
 - (d) Re-routing the northern multi-user route through what are phases D and E, so that there is a more direct east-west route. This route would be diverted around those phases to enable them to be worked and restored, and repositioned thereafter. This is shown pages 19 to 24 of the Public Access Strategy, particularly insets 19 and 20 and 25 and 26.

- (e) Retaining to a greater extent public access within a phase but outside areas being prepared, worked or restored. This is shown on pages 10 and 11 of the Public Access Strategy.
- (f) Retaining to a greater extent public access to land within the phase ahead of that which is subject to extraction operations. This is also shown on pages 10 and 11 of the Public Access Strategy.
- (g) An adjustment to the sequencing of mineral extraction areas – to reverse phases D and E. This enables a greater extent of the retained or restored parkland aligned in an east – west direction. This is shown on Figure 2-1 of the “Addendum to the Environmental Statement 2024” (CD/17.5) and the individual phase drawings which illustrate public access across the perimeter seal.
- (h) Rerouting the proposed path on the north side of Popefield Farm entirely on the northern side of the screen mound. This is shown on Initial Site Establishment plan (HQ3/7S).
- (i) The revised restoration plan (HQ3/15S) illustrates significantly more routes proposed within the restored landscape in comparison with HQ3/15R.

6.5. In overall terms, the revised Public Access Strategy comprises the following:

- (a) Retention of the two existing points of access between the eastern and western parts of the park throughout the life of the development.
- (b) A series of new bridleways to be laid out by the appellant, one of which is formed as part of the establishment works. These will be designed to accord with HCC standards and will be maintained by the Appellant in the first instance and thereafter the Trust following handover.
- (c) Two further multi-user routes aligned east-west to be laid out by the appellant. These will also be designed to accord with HCC standards and will be maintained by the Appellant in the first instance and thereafter the Trust following handover.
- (d) A collection of primary and secondary routes throughout the site to be laid out as part of the initial establishment works and re-routed to accommodate the sequence of mineral working and settled as part of the final restoration scheme as a comprehensive movement network.

- 6.6. The Revised Scheme is considered to accord to with Mineral Local Plan Policy 18 criterion (x), which specifically relates to public rights of way and enhanced public access. This view is shared by the MPA as evidenced by the Planning Policy SOCG (CD17/13) and Public Access SOCG (CD17.15).
- 6.7. Therefore, as an alternative to Suggested Condition 4a, the Appellant is proposing alterations to the existing proposed conditions to embed the Revised Scheme within the planning permission. It has also proposed an amendment to condition 12 and alternations to conditions 9 and 27, along with which will be other consequential references to drawings and documents.
- 6.8. The Inspector's concern that public access was not adequate has been addressed at this stage. This provides certainty for the Appellant, the MPA and the local community as to the form and operation of the mineral extraction, and retained and restored public access, and east-west connectivity with Ellenbrook Fields. Noting of course the detailed working and public access schemes for each phase are required to be prepared and approved in due course; as previously these would add a layer of design consideration to give practical effect to the measures proposed.
- 6.9. None of the above alters the substantive evidence tendered by the Appellant as to the reasons why the planning balance set out in Mr Jones' evidence leans decisively towards the grant of planning permission. The concluding submissions made on behalf of the Appellant at the close of the Inquiry are still maintained.

Owen Jones BA(Hons) Dip TP MSc MRTPI PIEMA

CARDIFF OFFICE

22 Cathedral Road, Cardiff, CF11 9LJ
02920 349737

admin@lrmp planning.com
lrmp planning.com

© LRM Planning Limited 2026

EXETER OFFICE

Winslade Manor, Manor Drive,
Clyst St Mary, Exeter EX5 1FY, 01392 690060



Registered Office: 22 Cathedral Road, Pontcanna, Cardiff, CF11 9LJ
Registered in England and Wales No 08618388 VAT Reg No 491 6004 00



RTPI

Chartered Town Planner