

# **TOWN AND COUNTRY PLANNING ACT 1990**

## **PROPOSED QUARRY AT FORMER HATFIELD AERODROME**

**Ref: APP/M1900/W/24/3346607**

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### **APPELLANT'S OPENING STATEMENT FOR RECONVENED INQUIRY**

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#### **INTRODUCTION**

1. The Appellant seeks consent for the winning and working of 8 million tonnes of sand and gravel from land at the former Hatfield Aerodrome ("the Appeal Site") on a phased basis with progressive restoration.
2. The principle of the acceptability of and need for sand and gravel extraction on the Appeal Site is long established and goes as far back as the Hertfordshire County Council Minerals Local Plan (1991-2006), which informed the Supplementary Planning Guidance: Hatfield Aerodrome (Adopted November 1999) ("the SPG")<sup>1</sup>. The extant Minerals Local Plan ("MLP"), which allocates the Appeal Site as Preferred Area 1, was adopted in 2007.<sup>2</sup>
3. The mineral was needed then, and it is needed even more today. The current Government places economic growth driven by the planning system at the core of its agenda. There is a need to deliver housing at quantities and rates not seen for many years, including in the south east in the districts within easy reach of the Appeal Site.

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<sup>1</sup> CD/3.3.

<sup>2</sup> CD/3.1 at §3.4.2.

The need in Hertfordshire for new sand and gravel is “urgent”: the landbank has fallen below 7 years (and continues to fall with no new permissions<sup>3</sup>).

4. In these circumstances, it is unquestionable that the Appeal Scheme’s mineral extraction attracts the great weight afforded by the National Planning Policy Framework.
5. This re-opened inquiry is concerned only with public access and will not revisit the many other matters discussed previously.
6. The Appellant has considered carefully the correspondence from the Secretary of State, and what it understands to be the Inspector’s concerns. In developing its revised proposals, the Appellant met with a wide range of stakeholders including HCC Planning Officers, Hertfordshire and North Middlesex Ramblers, St Albans District and Footpath Society, the Definitive Map and Enforcement Officers for Welwyn and Hatfield and HCC, the Countryside Access Officer for St Albans, Colney Heath Group (“CHG”), Mr Jackson, and Ms Eames-Petersen.<sup>4</sup>
7. The Appellant now proposes the following changes (“the Revised Scheme”):
  - a. New Phasing Plans, with two Options for Phasing.
  - b. A new Public Access Strategy.
  - c. Modified planning conditions.
  - d. Additional detail about the scheme design.
  - e. An Environmental Statement (“ES”) Addendum.
8. A period of formal consultation was carried out between 11 February 2026 and 15 March 2026.
9. The Minerals Planning Authority (“MPA” or “HCC”) has reviewed the proposals and concluded that<sup>5</sup>:
  - a. The MPA’s inputs have been incorporated into the Revised Scheme.

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<sup>3</sup> CD/17.13 at §61. Need SOCG INQ-15 at §4.51, 2024 LAA CD/17.12.

<sup>4</sup> See CD/17.14 at §1.4.2 and meeting notes from the informal public consultation carried out detailed in Appendix 1 to the Appellant’s Statement of Case (CD/17.21-2).

<sup>5</sup> Their position is set out in a series of Statements of Common Ground at CD/17.13, CD/17.14, and CD/17.15.

- b. The Revised Scheme would improve public access compared to the previous scheme (“the Original Scheme”).
- c. The public access proposals in the Revised Scheme (and indeed in the Original Scheme) would be acceptable and policy compliant.

10. This Opening Statement starts by addressing the public access proposals and then turns to the relevant policies.

## **THE PROPOSED SCHEME**

11. Those minerals that will deliver the development which will support economic recovery must be worked where they are found. In Hertfordshire, they are at the former Hatfield Aerodrome, and hence its Preferred Area status in the MLP.

12. As Mr Mutch will explain, each quarry site is different. The bromate plume here is a notable consideration that affects this Preferred Area, but all technical experts agree it can be managed. Public access is to some extent different here with permissive access having been allowed by the landowner previously, but in many quarries up and down the country extraction and public access work successfully together. Restored mineral sites can and regularly do bring very significant landscape, biodiversity, and public access improvements. The scheme will deliver the landscape, country park setting and biodiversity enhancements that have been expected at this location for some time now.

13. This scheme’s design has been the product of a complex collaborative effort over many years between the MPA, the Appellant’s technical specialists, and consultees.<sup>6</sup> The public access proposals had their origins via engagement with local stakeholders.<sup>7</sup> The final result seeks to address in one coherent scheme a range of environmental inputs, from heritage, to green belt, landscape, water quality, biodiversity and access (as required by policy and anticipated in the SPG<sup>8</sup>).

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<sup>6</sup> The design of the Original Scheme was explained at Appendix 1 to Mr Holliday’s Proof (BAL/05.2):

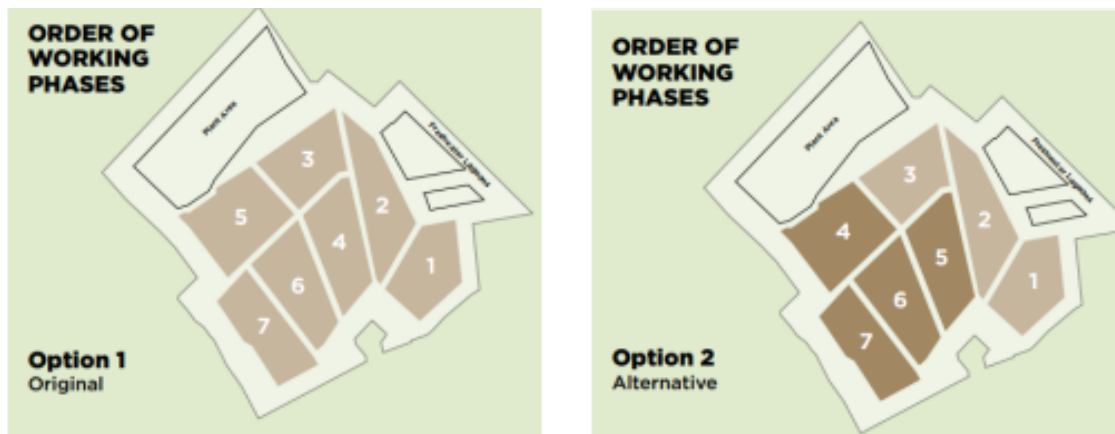
<sup>7</sup> As explained in Mr Mutch’s Proof BAL/07.1 at §9.6.

<sup>8</sup> For example, see SPG CD/3.3 at §9.4 objective to enhance ecological/nature value and §§ 9.8-9.10 where different water habitats are identified “to be explored” (including reedbed).

14. For the re-opened inquiry, the Appellant has provided a new suite of phasing drawings, a new Public Access Strategy (“the 2026 PAS”), and suggested changes to the conditions. The proposed improvements principally comprise:

- a. Revised phasing proposals.
- b. Retaining to a greater extent public access within a phase but outside areas being prepared, worked or restored.
- c. More and better permissive routes for all stages of the scheme, including a new public access route between the two clean water lagoons.
- d. Updated conditions.

(i) Revised Phasing



15. The Revised Scheme offers two phasing options.<sup>9</sup> The MPA and several interested parties agree Option 2 is preferable.<sup>10</sup> It offers the following access benefits:

- a. Always routes connecting entrances at Hatfield and Barlow to Notcutts.
- b. Always a route between Albatross Way and Notcutts.
- c. Routes across the southern area undisturbed for longer.<sup>11</sup>
- d. Once the southern area is being worked, the northern routes are established and remain in place.

<sup>9</sup> The replacement phasing drawings show further detail of the proposed working and public access during preparation, extraction and restoration operations for both Option 1 and Option 2, referenced HQ3/8S – HQ3/14S and HQ3/11B and HQ3/12B being the alternative plans for the reconfigured Phases D and E.

<sup>10</sup> Public Access SOCG (CD/17.15). Agreed by, e.g., the Ramblers Association CD/18.35 and Mr Jackson CD/17.17 and Marshalwick North Residents Association CD/18.50.

<sup>11</sup> As is explained in the Appellant’s Statement of Case CD/17.21-1 at §§2.39-2.45.

(ii) Access to Stages within Phases

16. From the consultation carried out was born a suggestion to open public access to parts of phases ahead of mineral working by allowing crossings over the perimeter clay seals.<sup>12</sup> To give effect to this, the 2026 PAS proposes sub-stages within the phases. Public access is retained in the part of e.g. Phase A that is not being worked and through e.g. Phase B when it is being prepared for working. The working would progressively move into the next phase, but as it does, more areas would be opened up behind. Consequently, and importantly, it is no longer necessary to exclude public access to two complete phases. There would also only be short periods where one entire phase is shut. This maintains to a greater extent connectivity across the park and improves movement.



*Access into Phase B as it is being prepared for working*

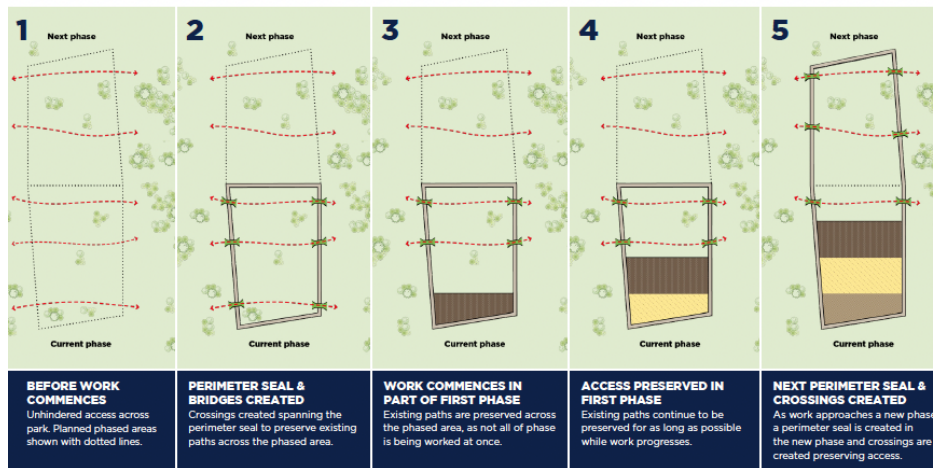
17. The phasing plans as static drawings cannot fully illustrate the progressive working method, but the animated clips are helpful.<sup>13</sup>

18. Static drawings showing the incremental workings are also provided also in the 2026 PAS:

<sup>12</sup> As explained in Appellant's Supplemental Statement CD/17.21-3 at §2.7.

<sup>13</sup> at CD/17.02.1-17.02.3.

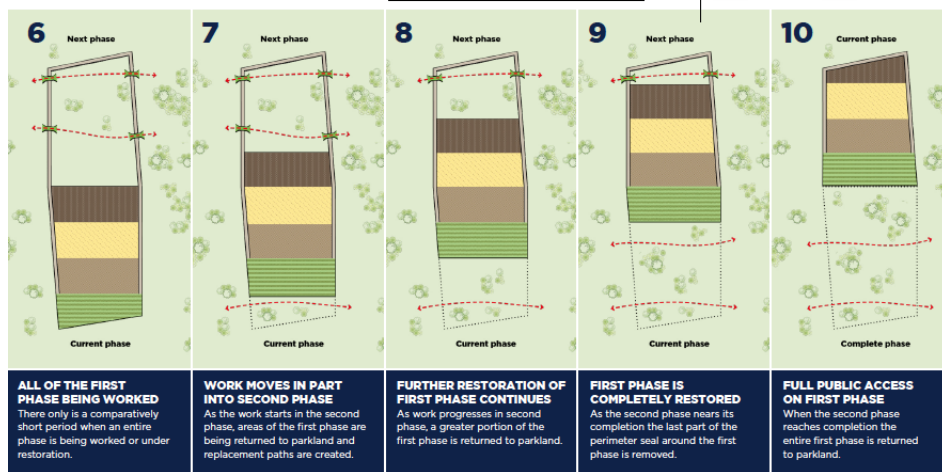
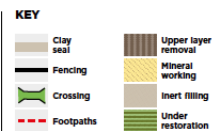
## Our plan includes an incremental work process that maximises access across the park, at all times



Although the entire project is divided into phases, work progresses in smaller stages within each phase. This allows us to keep areas ahead of us open and restore areas behind us as quickly as we can. Paths will be created as soon as each stage is finished, so people can

continue to use the park while work is ongoing. The diagram below explains our incremental work process.

[Click here to see an animation of our incremental working process.](#)



19. This sub-stage working method would maximise the integration of restored phases into the rest of the parkland.

### (iii) Access Routes

20. The 2026 PAS proposes a number of additions and alterations to public access routes, including the following:

- An additional route bisecting the upper and lower mineral lagoons.<sup>14</sup>

<sup>14</sup> This is shown in the Initial Site Establishment plan (HQ3/7S).

- b. The southern multi-user path laid out as part of the establishment works is re-aligned to more closely align with the taxiway and to provide a more direct route east-west once Phase A is restored. A temporary diversion would be immediately available while Phase A is being worked, improving cross-park connectivity from the outset.
- c. Two additional routes laid out in the Site Establishment Phase in the central part of the Appeal Site to improve east-west and north-south connections.<sup>15</sup>
- d. Significantly more routes proposed on final restoration.<sup>16</sup>

21. In total, four multi-user routes are proposed, three east-west and one north-south, all of which would be established from the outset. While the middle and southern east-west routes would accommodate temporary diversions for one phase each, the diverted sections would be constructed to a temporary standard suitable for multiusers.<sup>17</sup>

22. These routes are particularly beneficial.<sup>18</sup> CHG have referred to the use of the former taxiway for people with pushchairs or mobility requirements. The taxiway acts as the only current multi-user route within the park but is not a complete east-west or circular route. It is not an adopted right of way nor a feature the SPG expects to be retained.



<sup>15</sup> This is shown on the Initial Site Establishment plan (HQ3/7S).

<sup>16</sup> HQ3/15R in comparison with HQ3/15S.

<sup>17</sup> As explained in the Appellant's Supplemental Statement CD/17-21.3.

<sup>18</sup> They would conform with the standards laid out in 'Non-motorised routes in Hertfordshire design guidance' (September 2020) (CD/10.2) – as explained in the Appellant's Statement at §2.13.

23. The new multi-user routes would allow for improved year-round east-west and circular routes for walkers, cyclists, horse-riders, and those with wheelchairs or pushchairs – a more enjoyable alternative to the A1057 and of particular benefit for commuters.<sup>19</sup> Their specification is governed by condition 27. The final restoration scheme requires the establishment of 7 formal dedicated bridleways, making it vastly more accessible than what is available today.

(iv) Environmental Assessment

24. The Appellant has sought to ensure that the Revised Scheme does not undermine the environmental mitigations agreed with the MPA and key consultees. As reported in the ES Addendum, the predicted environmental effects of the Revised Scheme are not materially different.<sup>20</sup>

25. In particular, the Revised Scheme safeguards the key principles of water management agreed with the MPA, Arup (the MPA's experts), the Lead Local Flood Authority ("LLFA"), the Environment Agency ("EA"), and Affinity Water over many years. These are precautionary<sup>21</sup> principles necessary given the nature of the protection required: groundwater contamination. The assessment by the statutory consultees has proceeded on the basis these will be adhered to. That has influenced the design in three ways.

26. First, because of the location of the bromate plume to the north-east of the Site, a much smaller area is proposed to be extracted than was allocated in the MLP and indicated for extraction in the SPG. In this way, because of the bromate, public access will be affected across a smaller area that was originally expected in the MLP.<sup>22</sup>

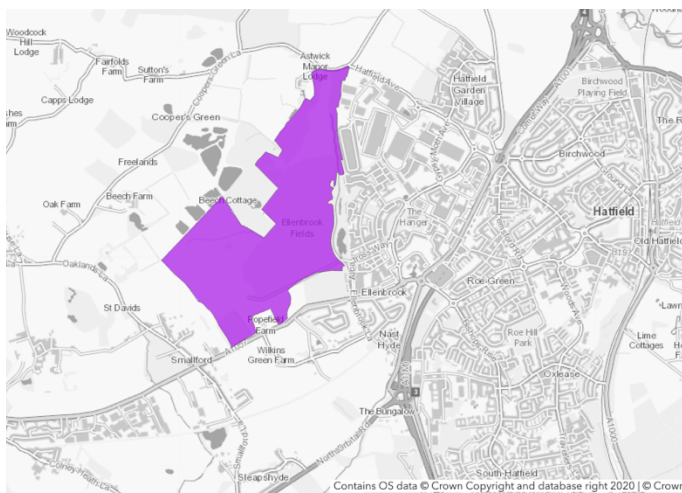
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<sup>19</sup> Mr Mutch Proof BAL/07.1 §9.10 and in the Roundtable.

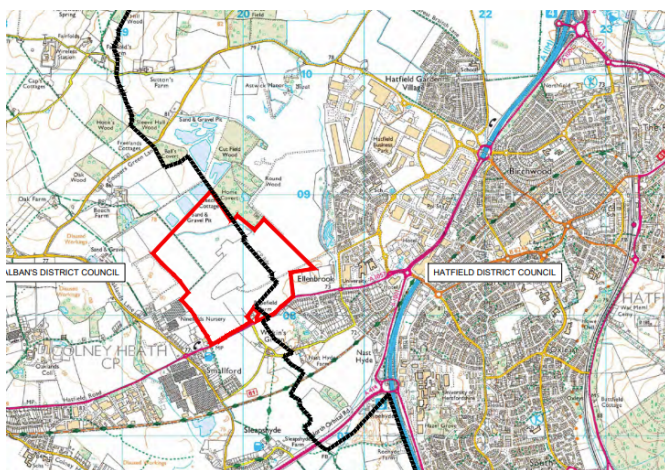
<sup>20</sup> CD/17.15 at §1.4.5. The ES Addendum is at CD/17.05.

<sup>21</sup> See Ms Thomas Statement for the 2024 Inquiry which refers to 'precautionary' principles.

<sup>22</sup> As agreed with the MPA at CD/17.13 §34.



*MLP Policies Map - Preferred Area*



*Site Location Plan*

27. Second, the quarry design is required by a condition required by the EA and MPA to adhere to the principles of the 2022 Groundwater and Water Monitoring and Management Plan (“GWMMP”).<sup>23</sup> Such is its significance to the principle of quarrying in this location that document took, quite literally, years to agree by way of detailed site investigations, monitoring, research, reporting, and discussion between the Appellant, the MPA, the EA, Affinity Water, and Arup.

28. A key aspect of the GWMMP is the requirement for two freshwater lagoons (the Upper and Lower Mineral Lagoons) at the eastern edge of the quarry to recharge shallow

<sup>23</sup> CD/2.11 Appendix 6-10. The final GWMMP is required by a condition required by the MPA’s technical advisors Arup and the EA to be based upon the 2022 GWMMP (SLR Ref: 403.09885.00024 Version No FINAL) (see INQ-30 (2024 SOCG at §§15-20, 2021 SOCG at section 8)).

groundwater removed from the aquifer to work the quarry. The GWMMP governs the location and conceptual design of the lagoons (see Drawing 9). The GWMMP anticipates the detailed design of the lagoons to be agreed with the MPA by condition<sup>24</sup>. A scheme for the landscaping of the lagoons could also, if considered necessary, be controlled by condition.

29. As explained in the GWMMP, the lagoons are to be constructed on the “*hydraulically down gradient, northeast perimeter of the Site*”. Their location was “*specifically selected based on their suitability for infiltrating water into the aquifers*”<sup>25</sup> and was agreed with the EA more than a decade ago.<sup>26</sup> The primary technical rationale is as follows:<sup>27</sup>

- a. First, the lagoons are, by necessity, downgradient of the prevailing groundwater flow paths.
  - i. If the lagoons were upgradient of the quarry, infiltrated water would naturally flow back towards the quarry, undermining their function.
  - ii. If the lagoons were upgradient and surrounded by backfilled phases, water would not be able to infiltrate effectively into the aquifer.
  - iii. Locating the lagoons downgradient avoids the need for groundwater pumping. If the lagoons were to the west, the perimeter drains would have to be pumped uphill back to the lagoons.
- b. Second, the lagoons are located so that the difference between the surface water level in the lagoon and the surface of the groundwater table (the hydraulic head) is as great as possible. This optimises the ability to manage surplus water encountered in quarry excavations by increasing downward water pressure and speeding up infiltration. This hydraulic head creates “*significantly more storage capacity*”.<sup>28</sup> Slower infiltration would require larger lagoons.
- c. Third, the other benefit of the lagoons in the east is that they are recharging groundwater - collected by the backdrains - into the aquifer, as close as possible to its original flowpath, thereby causing the least disturbance to the aquifer system.

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<sup>24</sup> At §4.7.2.

<sup>25</sup> As was explained in the 2018 GWMMP at §2.3.

<sup>26</sup> CD/17.21 at §§2.20-2.35 and Appendix 2.

<sup>27</sup> As explained in the Appellant’s Statement at CD/17.21-1 at §§2.20-2.35 and Appendix 2.

<sup>28</sup> GWMMP at §2.3.

30. Dr Wilkinson’s Technical Note explains that the hydrogeological regime “*would simply not allow the lagoons to function as needed to facilitate mineral extraction*” if they were moved in a westerly direction into the quarry.<sup>29</sup>
31. The construction of the lagoons is required by the EA for groundwater management.<sup>30</sup> Construction of the lagoons in this location is also a requirement of the EA’s site license for abstraction.<sup>31</sup>
32. The lagoons being in this location, also downgradient for surface water, is additionally a fundamental aspect of the drainage strategy agreed with the LLFA. It is proposed that the restored surface will drain by gravity to the lagoons primarily by a series of shallow swales with gently sloping sides.<sup>32</sup> The lagoons have been sized to accommodate the required infiltration in respect of the anticipated groundwater and also to provide the required attenuation for surface water up to and including a 1% AEP rainfall event +40% for both the operational and restoration phases.<sup>33</sup>
33. The MPA is clear that “*the lagoons are in the preferred location*”.<sup>34</sup>
34. On restoration, the lagoons would become a single lake, an attractive landscape feature of the park. The SPG always envisaged a water feature to be sited in this location. Notably, the Appeal Scheme includes less waterbodies than envisaged in the SPG, enabling public access over a wider area of the park in the long term than originally anticipated.

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<sup>29</sup> Appellant’s Statement at CD/17.21-1 Appendix 2.

<sup>30</sup> See e.g. CD/5.10, CD/1.1F proposed Condition 2.

<sup>31</sup> See CD/2.11 GWWMP at PDF p.57. This has been extended to 30/09/2027 and renewal applications have been submitted.

<sup>32</sup> See Mr Walton’s Technical Note at Appendix 1 to the Appellant’s Supplemental Statement for the Reconvened Inquiry CD/17.21-3. That is illustrated on drawing SWM003.

<sup>33</sup> CD2/11 Appendix 6-12 Technical Notes at p.4.

<sup>34</sup> CD/17.15 at §4.2.11. See also Mr Owen’s Proof of Evidence at CD/17.20 §4 for the Re-Convened inquiry.



*Extract from Figure 7 of the SPG*

35. In considering the impact of the lagoons on public access, the following points are relevant (and agreed with the MPA<sup>35</sup>):

- a. The Revised Scheme now proposes a path between the lagoons.
- b. Access from the Appeal Site into the wider park to the east exists principally in two locations – via the taxiway and close to Home Covert. The MLP allocation originally proposed the area to the east of the lagoons to be subject to extraction, thereby anticipating a far greater impact on public access.
- c. The access points to the east do not intersect with the lagoons and would be retained throughout the Scheme. There would be no loss of access between the Appeal Site and the wider park.
- d. There are not currently access tracks east-west through the area where the lagoons are proposed. None of the key routes identified by CHG in their Public Access Survey<sup>36</sup> would be stopped by the lagoons.
- e. There is a fenced field for livestock grazing immediately to the west of the lagoons outside the red line of the Site. That fenced area prevents access east-west at the location of the proposed lagoons.<sup>37</sup> The lagoons do not restrict east-west access, as there is no east-west access in that location. The livestock

<sup>35</sup> CD/17.15 at section 4.2.

<sup>36</sup> CD/17.18.

<sup>37</sup> This is described in paragraph 4.2.3 of the Public Access SOCG (CD/17.15). This is identified in the various landscape documents and plans agreed as Schedules to the Deed of Variation to the 2000 Agreement (“the Amended 2000 Agreement”). See. E.g. Schedule 21 and 22 of CD/17.11.10.

enclosure and fencing were introduced pursuant to the initial establishment works agreed in 2010 under the 2000 Agreement and are required to be maintained by the landowner in accordance with the 2000 Agreement Landscape Management Documents.<sup>38</sup>

- f. Significant portions of the land to the west of the livestock enclosure are currently inaccessible due to dense vegetation.

Lagoons relative to  
existing access tracks  
(CHG plan)



Lagoons relative to  
fenced area  
(drawing HQ3/1R)



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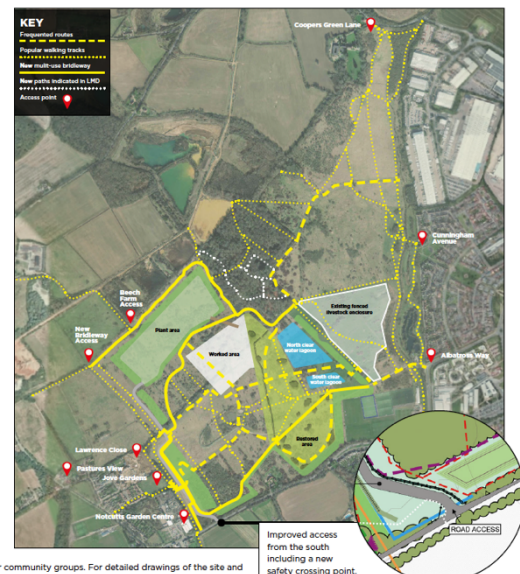
### Typical path network during the project

An example of paths and access points available while working a single phase of the site. Similar levels of access are preserved in every phase of the project.

For detailed path access for each phase of the project see page 18-31.



Routes identified by CHG



<sup>38</sup> CD/17.15 at section 4.2. Clause 4.87 of the Amended 2000 Agreement requires the landowner to maintain the Existing Establishment Works, which are at Schedule 22 and include the grazed fenced area.

36. The third design principle is that Phases A and B are worked first. The SPG states at §9.28 that it is likely that reserves at the eastern part of the preferred area should be worked first. Working Phases A and B first has the important benefit of providing an enhanced and reinstated eastern part of the Site, reintegrated to the rest of the park to the east, earlier on (and earlier reinstatement of the taxiway route).



37. Working Phases A and B first is also beneficial for groundwater management and mitigation.<sup>39</sup> As the SOCG with the MPA explains, infilling Phase A and B with low permeability material would, from the outset of the quarrying activity, form a barrier to flow from the eastern side of the site, blocking the pathway for bromate migration.<sup>40</sup>

38. In all, the design proposed is one that has been rigorously tested by all relevant technical consultees and experts and is one that works to achieve the environmental protections required to extract mineral safely at the Site. There is no evidence that any other design would adequately protect the environment.

<sup>39</sup> As explained in the Note at Appendix 2 to the Appellant's Supplemental Statement (CD/17.21-3).

<sup>40</sup> CD/17.15 at §8.3.2 and explained in the Environmental Statement Water Environment Chapter (CD/2.11 Chp06) at §6.170.

(v) Updated Conditions

39. A revised set of conditions has been submitted to secure the improvements in the Revised Scheme.
40. The 2026 PAS would be supplemented by Public Access Schemes for each phase, which will add further layers of detail and adjustment in consultation with the Ellenbrook Park Trust and other community groups.
41. The proposed conditions also require submission of a detailed surface water drainage scheme for each phase of the mineral extraction. It is a misconception to suggest that no drainage is proposed during the operational lifetime of the scheme.<sup>41</sup>

(vi) Conclusion

42. The MPA have concluded that the public access proposals have been improved and are acceptable. It is common ground between the MPA and the Appellant that the Appeal Scheme accords with Mineral Policy 18(x).
43. The revised Public Access Strategy provides meaningful east-west access across the Appeal Site and into the Ellenbrook Fields. It retains the two principal points of access from the land to the east. A range of routes are proposed that connect to these two points. These proposals, combined with the progressive hand-back of restored land, would ensure the restored areas will be quickly integrated into the unaffected park.
44. The Appeal Scheme would also bring a range of benefits for public access:<sup>42</sup>
- a. A number of new dedicated bridleways and multi-user routes;
  - b. Improved commuting across the park avoiding the A1057 (as well as improvements for pedestrians on the A1057, by way of an improved crossing with a pedestrian refuge and widening of the footpath);

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<sup>41</sup> As explained in Mr Walton's Technical Note appended to the Appellant's Supplemental Statement, CD/17.21-3.

<sup>42</sup> See Appellant SOC to Re-Convened Inquiry CD/17.21-1 at §3.43.

- c. Active on-site drainage reducing flooding (making it less wet and muddy);
- d. On restoration, a car park on the western side of the park for visitors to park;
- e. Improved biodiversity and a more attractive landscape in the long-term by the creation of a wider mosaic of grasslands, hedgerows, woodland and habitats.

45. Future generations would inherit a vastly improved and more accessible country park.

It is common ground between the MPA and the Appellant that the Appeal Scheme appropriately balances mineral extraction and the reasonable protection of public amenity required by the SPG.

## ALTERNATIVES

46. The question for the Inspector and the Secretary of State is whether the Revised Scheme that I have just described complies with the relevant policies. To those I will turn shortly.

47. Some third parties have suggested the Scheme should be refused not because of conflict with the relevant policies, but because another hypothetical scheme could come forward as an alternative.

48. That is simply not the test. The theoretical possibility of designing a different quarry scheme on this site is not a lawful reason to refuse consent. That principle is well-established in law.<sup>43</sup> As summarised recently by Lang J in *R (East Hertfordshire District Council) v Places for People* [2025] EWHC 2474:

*“52. The availability of alternatives is not a mandatory material consideration wherever there is potential planning harm. The law remains that consideration of alternatives is only material in “wholly exceptional circumstances” (see the Stonehenge case per Holgate J at [406-408]. This was confirmed in R (Substation Action Save East Suffolk) v Secretary of State for Business, Energy and Industrial Strategy [2202] EWHC 317 at [209-214].”*

49. The ground of challenge in that case was that a housing development should have been designed with the sports facilities in a different location to avoid impacts on a Grade I building. The Court found it was “*unarguable*” that there were wholly exceptional circumstances requiring an alternative design to be taken into account.

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<sup>43</sup> See the Stonehenge and Substation Action cases at CD/12.17 and CD/12.18.

50. One example where the Court did find “wholly exceptional” circumstances was the *Stonehenge* case<sup>44</sup>, where there would have been “irreversible”, “permanent” and “significantly adverse” harm to a world heritage site, Stonehenge, with “outstanding universal value”.
51. There are no “exceptional circumstances” of that kind here. The Site is allocated in the development plan. It is agreed with the MPA that the Scheme complies with the policies and that no material considerations indicate permission should be refused. Extensive and detailed public access provision is proposed.
52. Critically, the Courts have also made clear that even in those “exceptional circumstances” where alternative proposals might be relevant, “inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about would not be relevant or, if they were, should be given little or no weight”.<sup>45</sup>
53. So, even were there to be “exceptional circumstances” that would legally allow for consideration of an alternative scheme, there is no specific or choate alternative scheme that could even potentially be considered here. No other operator has put forward an alternative proposal. No other design has been assessed. There is no other scheme to consider, and no evidence that another scheme could work with the site constraints.

## THE POLICY FRAMEWORK

54. The Appeal Scheme would undoubtedly result in impacts to public access. While in the longer term the change would be positive, and in the short term there would be some benefits, there would of course be a level of adverse effect during the quarry’s operational lifetime.

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<sup>44</sup> CD/12.17 see §277 et seq.

<sup>45</sup> CD/12.17 §§268-272 (CD/12.17).

55. However, that is the inevitable consequence of winning and working minerals in accordance with the Appeal Site's status in the development plan and as anticipated by the SPG.

56. There is very strong and long-standing in principle policy support for this development.

57. The Hertfordshire Minerals Local Plan 1991-2006, adopted in 1998, gave preferred area status to the Appeal Site and a far wider area to the east and north. The planning authorities who were parties to the 2000 Agreement and who adopted the 1999 SPG did so in the knowledge of that allocation.

(i) The SPG

The SPG at §9.32 provides for selective opening up of areas to public access as mineral restoration is completed and aftercare undertaken and for completion of pedestrian and cycle links and opening up of remaining areas after mineral extraction.

58. The SPG refers to the need to strike a balance between maximising the use of the mineral resources and protecting the amenity of existing residents at Ellenbrook and Smallford and other existing occupiers/users (see §9.27). “Unreasonable effect” is the measure which the SPG refers to in judging the balance. The SPG does not specify how exactly public access, restoration, and wider park connectivity are to be achieved (for example, what order restoration should occur in, or where access to the wider park should happen).

59. The SPG considered an appropriate balance could still be achieved back when mineral extraction could have taken place over a far larger area than is now proposed.

60. As agreed with the MPA, all of the principles of the SPG are complied with, and an appropriate balance has been struck.<sup>46</sup>

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<sup>46</sup> CD/17.13 SOCG at §§44-45; See INQ/15 Main SOCG with MPA at §4.19, §9.11, §9.14, §9.15; See Mr Owen's Proof of Evidence at §4 for the Re-Convened inquiry (CD/17.20).

(ii) The 2000 Agreement

61. As confirmed by the MPA, “*the principle of excluding the public from the Site during its development was established in the 2000 planning permission*”.<sup>47</sup>

62. The original 2000 Agreement required Ellenbrook Park to be accessible and freely available to the public, “*save during periods when public access needs to be excluded from parts thereof ... when minerals are being extracted pursuant to a planning permission*” (§4.83).

63. The 2000 Agreement has now been varied. The amended 2000 Agreement provides for public access to the Appeal Site to be controlled by the minerals permission. Neither the Original nor Revised Scheme would give rise to any conflict with the amended 2000 Agreement.<sup>48</sup>

(iii) The MLP

64. The acceptability of extraction at Ellenbrook was subject to detailed examination at the MLP public inquiry. The allocation took place in the knowledge of the need to manage the bromate.<sup>49</sup> It was made following an “*extensive site selection process*” to identify the most sustainable locations.<sup>50</sup>

65. The stated intention of the allocation<sup>51</sup> is “*to give clear guidance to users of the Plan, both as to where permission is likely to be forthcoming, and where permission is unlikely to be granted*”.

66. MLP Policy 18(x) states that proposals for mineral extraction shall, “where appropriate”, address a series of criteria, including that schemes should:

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<sup>47</sup> INQ/15 Main SOCG with MPA at §9.14.

<sup>48</sup> As agreed by the MPA CD/17.14 at §§27-32. Welwyn Hatfield have confirmed the same CD/18.44. As have St Albans City and District Council CD/18.61 and CD/18.61-1.

<sup>49</sup> The MLP Site Brief expressly acknowledged that “[t]he proposed site lies over an area contaminated with a plume of Bromate.”

<sup>50</sup> (see §3.4.2 of the MLP)

<sup>51</sup> See §3.4.1.

*“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. .... 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;”*

67. As the MPA has explained:<sup>52</sup>

*“.... the requirement for convenient temporary alternative provision contained within Policy 18(x) relates to public rights of way rather than to informal permissive routes and does not specify that cross park routes between Smallford and Salisbury Village must be maintained.”*

68. It is agreed with the MPA that:

- a. 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.<sup>53</sup>
- b. The section 106 agreement requires dedication of 7 new bridleways on restoration. This is a “*substantial addition and upgrade*” to the network.<sup>54</sup>

69. Notwithstanding what is said in various third party representations, there is no policy requirement for “*unfettered access*” to the Site during mineral operations. Nor could there be – that would be inconsistent with the principle of the area being worked.

(iv) Policy conclusion

70. It is common ground with the MPA that the Original and Revised Schemes comply with the relevant policies in full.<sup>55</sup>

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<sup>52</sup> at §8 of Mr Owen’s Proof CD/17.20.

<sup>53</sup> CD/17.13 at §22.

<sup>54</sup> Mr Owen explains at §8 of his Proof of Evidence for the Re-Convened Inquiry CD/17.20.

<sup>55</sup> See Main SOCG for Original Inquiry INQ/15 at section 4, See SOCG for Re-Convened Inquiry CD/17.13.

## CONCLUSIONS

71. There is a statutory presumption in favour of the development plan which points in favour of approval. As agreed with the MPA, there are no material considerations that indicate an alternative conclusion.<sup>56</sup>
72. Substantial material considerations weigh in favour of the Proposal. There is an “*urgent need to improve supply*”<sup>57</sup> of sand and gravel to produce the materials needed to kickstart economic growth and to tackle the housing crisis.
73. As always, there would be some adverse effects from winning and working minerals, but they would be acceptable and appropriately mitigated. The MPA’s Team Leader for Development Manager has explained that, in the Council’s opinion<sup>58</sup>: “*the original public access proposals struck an acceptable balance, the revised scheme constitutes an improvement.*”
74. So, in due course, we will invite the Inspector to recommend approval, and the Secretary of State to allow the appeal.

**ODETTE CHALABY**  
**LANDMARK CHAMBERS**

**15 APRIL 2026**

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<sup>56</sup> CD/17.13 at §§78-80.

<sup>57</sup> Main SOCG with MPA INQ/15 at §5.10.

<sup>58</sup> in his Proof of Evidence at §4 for the Re-Convened inquiry (CD/17.20).