LAND AT HATFIELD AERODROME, OFF HATFIELD ROAD

HCC ref: PL/0232/21

PINS ref: APP/M1900/W/24/3346607

CLOSING STATEMENT on behalf of
HERTFORDSHIRE COUNTY COUNCIL

Introduction

1. HCC have not called evidence at the inquiry and their position generally remains as set out in opening.

2. One point has arisen on which HCC would like to make the following comments.

Necessity for groundwater protection conditions.

3. The Inspector has asked why it is necessary for conditions to ensure that the Proposed Development does not result in the ground contamination in the bromate plume moving into other parts of the aquifer, if that did not have the effect of moving the plume closer to existing public water abstraction points in Essenden and along the River Lee.

4. HCC's position is that it is critical that the Proposed Development is designed and implemented in a way which will ensure that it does not cause the bromate plume to spread into currently uncontaminated areas. The proposed conditions are designed with this clear goal in mind and, deliberately, do not replicate controls existing under other regimes. This is agreed with the Appellant, and with the Environment Agency as statutory consultee and the relevant expert body. The Agency's view should be given considerable weight and cogent and compelling reasons would be required to depart from their position: ***Visao Ltd v The Secretary of State for Housing, Communities And Local Government*** [2019] EWHC 276 (Admin).

5. Ms Thomas, for the Agency, responded to the Inspector's question in the conditions session and the main groundwater roundtable. She explained that the Agency's functions include protecting the aquifer as a receptor in itself and that the need to contain the bromate plume was not simply about protecting existing potable public water supplies.

6. Ms Thomas also made reference to the Water Framework Directive. This is implemented by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 which imposes a duty at Regulation 3 on the Agency and on the Secretary of State to "*exercise their relevant functions so as to secure compliance with the requirements of the* [Water Framework Directive], *the* [Environmental Quality Standards Directive] *and the* [Groundwater Directive]".

7. Collectively, those directives require action to prevent deterioration in the groundwater status of relevant bodies of water (which would include the Chalk Aquifer) and to support the achievement of the environmental objectives set for them. This is something with which the Secretary of State will be required to exercise his functions on the appeal so as to comply.

8. Allowing the bromate plume to spread or move into new areas would compromise those objectives. It is a material harm which needs to be controlled and prevented, regardless of the implications for public water supply. However, as Ms Thomas said there are also other, smaller private abstractions on the periphery of the plume which might be adversely affected. As such it is not right that drawing the plume towards the Site would not adversely affect water supplies.

9. The NPPF also makes clear reference to groundwater conditions and risk of contamination as a material consideration within Chapter 15 of the NPPF, in particular at NPPF 189 and 191. These paragraphs are not limited to the consideration of pollution and contamination originating from the site or the proposed development but include consideration of all of the likely effects of the proposed development on the environment. The same is true of the environmental impact assessment regime and of Policy 17 of the Minerals Local Plan.

10. In the circumstances, HCC's position is that the conditions are entirely necessary and otherwise meet the policy and statutory tests.

Matthew Dale-Harris

Landmark Chambers

29 November 2024