



Appeal Decisions

Inquiry Held on 8, 10 and 18 September 2020

Site visit made on 15 September 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2020

Appeal A: APP/M1900/W/19/3233985

Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by A F Pinkerton and Partners against the decision of Hertfordshire County Council.
- The application Ref 01/1239-16, dated 20 June 2016, was approved on 31 May 2019 and planning permission was granted subject to conditions.
- The development permitted is "Section 73 Application to Increase the Maximum Throughput of Green Waste from 8,000 to 23,500 tonnes per annum".
- The conditions in dispute are: **No 2** which states Unless prior approval in writing by the Waste Planning Authority has been given, no deliveries shall take place at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no deliveries on Sundays or Public and Bank Holidays). Unless prior approval in writing by the Waste Planning Authority has been given, no processing of green waste including tipping, screening, shredding, turning and onward transmission to maturation pads shall be undertaken at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no processing on Sundays or Public and Bank Holidays); **No 7** which states Without prejudice to the limitation on HGV movements in condition 5, the total number of vehicle movements (including HGV's) in relation to the movement of green waste or compost, shall not exceed 30 movements (15 in 15 out) entering/leaving the access onto Kemprow at the site Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) at the site on Saturdays; and **No 8** which states A register shall be kept of all vehicles delivering green waste and exporting compost onto the public highway at the site. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported) and the date and time of arrival and departure from the site.
- The reasons given for the conditions are: **No 2**: To minimise the adverse impact of deliveries and operations on the surrounding area in terms of noise, traffic generated and general disturbance; **No 7**: In the interest of highway safety and capacity to ensure free and safe flow of traffic along the public highway in the vicinity of the site, to be in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018) and in the interest of local amenity; **No 8**: In the interests of highway safety and to minimise adverse effects upon the free flow of traffic along the highways in the vicinity of the site and to assist the Waste Planning Authority in monitoring the site.

Summary of Decision: The appeal is allowed and planning permission is varied in accordance with the formal decision.

Appeal B: APP/M1900/W/19/3233992 Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by A F Pinkerton and Partners against the decision of Hertfordshire County Council.
- The application Ref 0/1076-18, dated 19 April 2018, was approved on 31 May 2019 and planning permission was granted subject to conditions.
- The development permitted is "Section 73 Application to vary the wording of Condition 6 of planning permission 0/1097-09 relating to the number of HGV movements".
- The conditions in dispute are: **No 2** which states Unless prior approval in writing by the Waste Planning Authority has been given, no deliveries shall take place at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no deliveries on Sundays or Public and Bank Holidays). Unless prior approval in writing by the Waste Planning Authority has been given, no processing of green waste including tipping, screening, shredding, turning and onward transmission to maturation pads shall be undertaken at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no processing on Sundays or Public and Bank Holidays); **No 7** which states Without prejudice to the limitation on HGV movements in condition 5, the total number of vehicle movements (including HGV's) in relation to the movement of green waste or compost, shall not exceed 30 movements (15 in 15 out) entering/leaving the access onto Kemprow at the site Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) at the site on Saturdays; and **No 8** which states A register shall be kept of all vehicles delivering green waste and exporting compost onto the public highway at the site. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported) and the date and time of arrival and departure from the site.
- The reasons given for the conditions are: **No 2:** To minimise the adverse impact of deliveries and operations on the surrounding area in terms of noise, traffic generated and general disturbance; **No 7:** In the interest of highway safety and capacity to ensure free and safe flow of traffic along the public highway in the vicinity of the site, to be in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018) and in the interest of local amenity; **No 8:** In the interests of highway safety and to minimise adverse effects upon the free flow of traffic along the highways in the vicinity of the site and to assist the Waste Planning Authority in monitoring the site.

Summary of Decision: The appeal is allowed and planning permission is varied in accordance with the formal decision.

Appeal C: APP/M1900/W/19/3234026 Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by A F Pinkerton and Partners against the decision of Hertfordshire County Council.
- The application Ref 0/0144-18, dated 8 January 2018, was approved on 31 May 2019 and planning permission was granted subject to conditions.
- The development permitted is "Application for the continued use of an existing maturation pad (Works Field 1) for the processing of green waste and its conversion into compost for use as a fertilizer on land farmed by AF Pinkerton & Partners from its hub".
- The conditions in dispute are: **No 4:** which states Within 3 months of the date of this permission, a scheme for landscape screening of the maturation site at Works Field 1 including the planting of a hedgerow to the south and east boundaries of the site shall

be submitted to and agreed in writing by the County Planning Authority. All planting agreed shall be undertaken within the first planting season following the agreement of the details as submitted; **No 8** which states Unless prior approval in writing by the Waste Planning Authority has been given, no deliveries shall take place at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no deliveries on Sundays or Public and Bank Holidays). Unless prior approval in writing by the Waste Planning Authority has been given, no processing of green waste including tipping, screening, shredding, turning and onward transmission to maturation pads shall be undertaken at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no processing on Sundays or Public and Bank Holidays); **No 9**: which states The compost produced at the application site shall achieve PAS100 accreditation or any subsequently revised standard superseding PAS100, which subsequent standard shall be submitted to and agreed in writing by the Waste Planning Authority; **No 10** which states Within three months of this decision notice details of the drainage of the maturation pad shall be submitted to the Waste Planning Authority and drainage shall take place in accordance with the approved details; **No 11** which states HGV lorry movements delivering green waste to the reception centre shall not exceed 16 (8 in, 8 out) on Mondays to Fridays and 8 (4 in, 4 out) on Saturdays; **No 12** which states Without prejudice to the limitation on HGV movements in condition 5, the total number of vehicle movements (including HGV's) in relation to the movement of green waste or compost, shall not exceed 30 movements (15 in 15 out) entering/leaving the access onto Kemprow at the site Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) at the site on Saturdays; **No 13** which states A register shall be kept of all vehicles delivering green waste and exporting compost onto the public highway at the site. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported) and the date and time of arrival and departure from the site.

- The reasons given for the conditions are: **No 4**: To limit adverse visual effects upon the surrounding landscape; **No 8**: To minimise the adverse impact of deliveries and operations on the surrounding area in terms of noise, traffic generated and general disturbance; **No 9**: In the interest of human health and odour suppression; **No 10**: To prevent groundwater pollution; **No 11**: In the interest of highway safety and capacity to ensure free and safe flow of traffic along the public highway in the vicinity of the site, to be in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018) and in the interest of local amenity; **No 12**: In the interest of highway safety and capacity to ensure free and safe flow of traffic along the public highway in the vicinity of the site, to be in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018) and in the interest of local amenity **No 13**: In the interests of highway safety and to minimise adverse effects upon the free flow of traffic along the highways in the vicinity of the site and to assist the Waste Planning Authority in monitoring the site.

Summary of Decision: The appeal is allowed and planning permission is varied in accordance with the formal decision.

Appeal D: APP/M1900/W/19/3234036 Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by A F Pinkerton and Partners against the decision of Hertfordshire County Council.
- The application Ref 0/1082-18, dated 19 April 2018, was approved on 31 May 2019 and planning permission was granted subject to conditions.
- The development permitted is "Application for the construction of two maturation pads (Works Field 2 and Works Field 3) to be used for the processing of green waste and its

- conversion into compost together with the creation of a lagoon to hold water draining from all three pads in works field and peripheral landscaping to include a screen bund.”
- The conditions in dispute are: **No 4** which states that Within 3 months of the date of this permission, a scheme for landscape screening of the maturation site at Works Field 2 and 3 including the planting of a hedgerow to the south and east boundaries of the site shall be submitted to and agreed in writing by the Waste Planning Authority. All planting agreed shall be undertaken within the first planting season following the agreement of the details as submitted; **No 8** which states that Unless prior approval in writing by the Waste Planning Authority has been given, no deliveries shall take place at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no deliveries on Sundays or Public and Bank Holidays). Unless prior approval in writing by the Waste Planning Authority has been given, no processing of green waste including tipping, screening, shredding, turning and onward transmission to maturation pads shall be undertaken at the site except during the following hours: 7.30am – 5.00pm Monday to Friday; and 8am – 12.30pm on Saturdays (no processing on Sundays or Public and Bank Holidays); **No 9** which states The compost produced at the application site shall achieve PAS100 accreditation or any subsequently revised standard superseding PAS100, which subsequent standard shall first be submitted to and agreed in writing by the Waste Planning Authority; **No 12** which states HGV lorry movements delivering green waste to the reception centre shall not exceed 16 (8 in, 8 out) on Mondays to Fridays and 8 (4 in, 4 out) on Saturdays; **No 13** which states Without prejudice to the limitation on HGV movements in condition 5, the total number of vehicle movements (including HGV’s) in relation to the movement of green waste or compost, shall not exceed 30 movements (15 in 15 out) entering/leaving the access onto Kemprow at the site Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) at the site on Saturdays; **No 15** which states A register shall be kept of all vehicles delivering green waste and exporting compost onto the public highway at the site. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported) and the date and time of arrival and departure from the site.
 - The reasons given for the conditions are: **No 4**: To limit adverse visual effects upon the surrounding landscape; **No 8**: To minimise the adverse impact of deliveries and operations on the surrounding area in terms of noise, traffic generated and general disturbance; **No 9**: In the interest of human health and odour suppression; **No 12**: In the interest of highway safety and capacity to ensure free and safe flow of traffic along the public highway in the vicinity of the site, to be in accordance with Policy 5 of Hertfordshire’s Local Transport Plan (adopted 2018) and in the interest of local amenity; **No 13**: In the interest of highway safety and capacity to ensure free and safe flow of traffic along the public highway in the vicinity of the site, to be in accordance with Policy 5 of Hertfordshire’s Local Transport Plan (adopted 2018) and in the interest of local amenity **No 15**: In the interests of highway safety and to minimise adverse effects upon the free flow of traffic along the highways in the vicinity of the site and to assist the Waste Planning Authority in monitoring the site.

Summary of Decision: The appeal is allowed and planning permission is varied in accordance with the formal decision.

Applications for costs

1. At the Inquiry an application for costs was made by Mr Becker, the ‘Rule 6 party’, against the appellant. A counter application for Costs was made by the appellant against Mr Becker. These applications are the subject of separate Decisions.

Background

2. Blackbirds Farm is located within the Metropolitan Green Belt. The National Planning Policy for Waste 2014 confirms that development comprising waste management facilities in the Green Belt is 'inappropriate' development.
3. The farm has a lengthy planning history. A key element of this is the planning permission granted in 2009¹ for change of use of existing silage pits to use as open windrow composting of green waste. Appeals A and B concern revisions to new conditions imposed with respect to increased throughput of green waste and associated vehicle numbers relating to the aforementioned 2009 permission. Accordingly these appeals do not involve development in its own right, either by way of operational development or change of use, and as such do not therefore relate to 'inappropriate' development.
4. Appeals C and D, on the other hand, do concern development and there is no dispute that the proposals to continue the use of and to develop new maturation pads would amount to inappropriate development in the Green Belt. It therefore follows that very special circumstances must be shown to exist in order to justify these developments.
5. The appeals are made under section 78 of the Act. I am empowered to allow or dismiss the appeals or reverse or vary any part of the decisions. In summary my approach is therefore to consider afresh each of the permissions to which these appeals relate, whilst focussing on the areas of dispute between the parties. The Council and appellant have reached agreement as to revised conditions that should be applied in the case of all four appeals. However the 'Rule 6 party', at the Inquiry, says that not all of the conditions are satisfactory and as such has suggested alternative wording. Furthermore additional conditions are suggested.
6. The permissions that are the subject of these appeals are also the subject of a High Court challenge². The outcome of that challenge is therefore subject to the decisions on these four appeals.

Main Issues

7. The main issues in this case are: -
 - With regard to Appeals C and D, taking into account that the proposals would be 'inappropriate' development, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
 - In this case the potential other harms weighing against the proposals, having regard to objections raised, are the effects on the living conditions of residents, with particular regard to noise related disturbance from vehicle movements and odour generation from various aspects of the composting operation.
 - The other considerations, potentially weighing in favour of the developments, are general capacity within Hertfordshire to deal with green waste and whether

¹ Ref 0/1097-09

² *Becker v Hertfordshire County Council & Alistair Pinkerton CO/2727/2019*

the agricultural need of the farm itself justifies the proposed increase in green waste processing and compost production.

- Appeals A and B do not concern inappropriate development. Accordingly these appeals turn on whether the capacity and need arguments outweigh any impact on living conditions.

Reasons

Policy Context

8. There is no dispute between the parties that key policies relevant to these appeals are Policies 1A, 6, 11, 13 and 15 of the Hertfordshire Waste Core Strategy and Development Management Policies Development Plan Document 2012 (CS), Policy 5 of Hertfordshire's Local Transport Plan 2018 (LTP) and relevant Policies in the Hertsmeire Core Strategy 2013 (HCS) and the Hertsmeire Site Allocations and Development Management Policies Plan 2016 (DMPP).
9. In terms of the CS, Policy 1A reflects national planning policy stating that there will be a presumption in favour of sustainable development.
10. Policy 6 states that new or expanded waste management facilities in the Green Belt will be considered against various criteria to determine whether very special circumstances exist to justify the development. These are the need for the development to be within the Green Belt; the need to find locations as close as practicable to the source of the waste; the availability of sustainable transport connections; site characteristics including any specific locational advantages and the wider economic and environmental benefits of sustainable waste management.
11. Policy 11 sets out further criteria for the assessment of waste planning applications. These include that it should be appropriate, in terms of its design attributes, to the character of the surrounding area and that amenity and human health should not be adversely affected.
12. Policies 13 and 15 collectively seek to ensure that traffic arising from waste related development does not have a significant adverse impact on issues including highway safety and capacity, amenity and human health and also ensures that public rights of way are protected.
13. Policy 5 of the LTP is concerned amongst other things with ensuring highway safety.
14. Regarding the HCS, Policy CS13 is concerned with Green Belt protection and CS16 with environmental protection.
15. In terms of the DMPP, Policy SADM20 is concerned with ensuring that environmental pollution is controlled and SADM26 with development standards in the Green Belt.

Green Waste capacity

16. The National Planning Policy Framework (the Framework) states that strategic policies should make sufficient provision for waste management. It is common ground between the appellant and Council that there is a sizable shortage of

capacity within Hertfordshire for processing certain types of waste, including the recycling and composting of non-hazardous waste, notably in the western part of the County.

17. The Council's evidence is that the capacity gap in composting facilities may be in the region of some 181,000 tonnes / annum by 2031 / 32. The existence of a shortage in capacity was recognised by the Council's Waste Management Unit and later reaffirmed³. It would appear that capacity has been further adversely affected by the closure of a significant operator (Reviva), within the last year, despite an earlier consent for green waste processing on a different site (Cattlegate - 2013). That a capacity gap exists in principle is not disputed by the Rule 6 party in this case. There is no evidence before me that would lead me to doubt the Council's assessment or to indicate that alternative suitable sites for green waste composting are available outside the Green Belt.
18. The site is in close proximity to large urban settlements, including Watford and the north London conurbation. It therefore appears to be situated so as to potentially make a significant contribution to reducing the distance required to transport green waste from source. I therefore consider that expanding the capacity of Blackbirds Farm to accept green waste for recycling purposes, an operation that would be well placed in the waste hierarchy, would lead to environmental benefits.
19. I acknowledge that from the evidence given during the Inquiry, it appears the appellant has waste contracts associated with more distant locations, including Kent. Furthermore there is no such contract in place with the Council at present. However market characteristics may change over time, and this does not take away from the locational advantages that I have identified above.
20. Drawing these considerations together, I conclude that the shortfall in capacity for waste management, in the context of the locational benefits of the site attracts significant weight in the overall planning balance.

Agricultural Need

21. Some Inquiry time was spent on the question of whether the size of Blackbirds Farm justifies the quantity of compost said to be required for use there. Mr Becker points out that the Blackbirds Farm land bank appears to be a moving feast, in particular that original calculations of need did not take into account an agricultural contract only recently secured by the appellant, involving the so-called Munden Estate (some 82 hectares).
22. However there is nothing unusual about businesses growing and contracting as market characteristics change. It would seem logical that an agricultural business could be similarly affected and that land ownership and contractual arrangements would be subject to change because of this. That agricultural land banks may fluctuate in size on a frequent basis was a point made in evidence by Dr Gibbs, in relation to which there was not any meaningful challenge. Indeed it was accepted by Mr Danks, for the Rule 6 party, that land is often farmed under contract and that new contracts may arise. Furthermore it was accepted in evidence that for the purposes of the Environment Agency's permitting regime, land could be distributed anywhere within a 10-mile radius

³ Email correspondence dated June 2016 and May 2018.

and still qualify as being part of the same farm. There is no dispute that the land bank relied on in this case would conform with this parameter.

23. Dr Gibbs proceeded to set out the methodology used to calculate the compost, and therefore green waste throughput requirements for Blackbirds Farm. Aside from land area associated with the farm operation, this encompassed likely cropping patterns and rotation, crop fertiliser requirements based on a nationally recognised standard⁴, the fertility of the soil subject to consideration⁵ and analysis of the average nutrient value of compost samples provided by the farmer.
24. I give weight to the consideration that Dr Gibbs' qualifications mean that he is formally recognised as an expert able to give fertiliser advice; also to the fact that he explained, unchallenged, that he could create a nutrient management plan for a farm based on the information that he had been provided with in this case, despite that information not including the previous nutrient management plan records for the farm.
25. Leading on from this I have no reason to doubt that the methodology used by Dr Gibbs, as described above, would be typical or that the findings, based on this methodology and the present farm area managed by the appellant, some 475 hectares, would be robust. I also have no reason to doubt that the farmer has access to the scale of land indicated, for farming purposes, or despite the exact location of each crop in a given year not being specified, that it would be practical and viable to grow the proposed mix of arable crops or the proposed hectareage of grassland.
26. It is undisputed that Dr Gibbs calculations were based on a 'middle estimate' of nutrient requirements, recognising that some types of crop are 'hungrier' than others. Therefore as to soil fertility, given that the overall nutrient requirement could be higher in a specific year than estimated, I am not persuaded from the evidence given, including the expenditure of nutrients in a typical crop cycle, that conducting a field-by-field analysis would result in any variation of findings that would be significant, when compared to the aforementioned desk top study.
27. An area of challenge was that the amount of compost said to be required did not take into consideration the use of alternative organic fertilisers on the farm, such as digestate. This, it is claimed, would have the effect of offsetting the overall need for compost. However it seems to me that the choice of soil nutrients in any given year is properly an economic consideration for the farmer. It was agreed that if compost is applied at the maximum rates, then manufactured rather than organic fertilisers would be required as a supplement, so as to ensure sufficient nitrogen is made readily available to the crop.
28. However, despite the potential need to use inorganic fertilisers as a supplement, from the undisputed evidence given by Dr Gibbs, it seems to me that there would still be a significant contribution to environmental sustainability from increased compost application, in terms of carbon retention in the soil. Furthermore I consider that a recommendation to increase the use

⁴ RB209

⁵ Based on a desk study of SOYL records

- of compost to maximum rates at the expense of other organic nutrients, when there remain agricultural benefits from doing so, does not equate to there being a lack of agricultural need for such an increase. In addition a grant of permission allowing for compost application at maximum rates does not prevent it being produced and applied more sparingly in combination with other organic fertilisers. Rather it allows for reasonable flexibility with which to meet the agricultural need. I am not persuaded that a green waste contract could not be made with sufficient flexibility to reflect this.
29. A further area of challenge concerned the testing regime for compost samples, in light of the findings that the samples associated with the farm showed nutrient content to be consistently below that recognised to be typical in terms of the nationally recognised standard. However despite the number of samples taken being lower than would have been expected by Mr Danks, he did accept that the sampling carried out provided a reasonable basis on which to form an assessment.
 30. I am persuaded, in accordance with Dr Gibbs' evidence, that the nutrient content was found to be reasonably consistent across the samples, also that the timing of the samples later in the year reflected specific farm practice whereby compost production is focussed on the acceptance of green waste at times of peak production during the spring and summer months. Therefore although the nutrient content of compost at the farm was found to be lower than what would be expected typically, I concur with the view expressed by Dr Gibbs that typical readings do not necessarily reflect site specific circumstances. It seems to me therefore that the analysis is robust. In addition I did not hear any evidence that would lead me to conclude that the allowance within Dr Gibbs' calculations for compost applications to grassland would be unreasonable.
 31. It was accepted by Mr Danks that the need for the maximum levels of compost proposed that would derive from the amount of green waste throughput sought would, would be reasonably foreseeable as a possible maximum in a particular year, albeit that in his view this was unlikely and would not be a year on year requirement.
 32. However there is no suggestion that the appellant is seeking to deploy the maximum amounts of compost that could potentially be generated year on year. I consider that permitting the production of more green waste related compost would not preclude the use of alternative organic fertilisers. It does however allow flexibility to the business, irrespective of the extent and pattern of historical compost use at the farm. In the event that any of the compost produced on the maturation pads is unused in a given year, surplus supplies held in those locations would affect the capacity to deal with green waste in subsequent years, such that importation would be physically self-regulating to a degree.
 33. Furthermore the land bank associated with the composting operation does not fall within a nitrate vulnerable zone and I give weight to Mr Prosser's undisputed evidence that having been consulted on the planning applications, the Environment Agency has not raised the concern that the proposed level of compost application would lead to environmental problems. I am also mindful of Dr Gibbs' undisputed evidence that application of compost would need to ensure compliance with regulations in terms of nitrogen and phosphate inputs.

34. Dr Gibbs gave evidence that he was aware of other farms using compost as a sole organic fertiliser and that this is beneficial rather than harmful. Mr Danks accepted that even if compost was applied at proposed maximum capacity levels each year, it would in his view not result in any significant harm. He was not aware of any harm arising from compost application elsewhere in the UK.
35. Drawing the above considerations together, I find that the appellant has taken a reasonable approach to the calculation of the agricultural need for additional compost. The argument that assessing the need for compost and fixing a quota on throughput, according to the nature of land holdings and contracts at a specific point in time would be too inflexible and constraining for the business, is a compelling one. It seems to me that a planning condition setting a maximum green waste throughput, based on identifying compost need in any one year, including actual crop yield and field-by field analyses would be an excessively fine-grained approach. It would not allow for sufficient flexibility and as such would be unreasonably onerous. It is therefore appropriate to phrase such a condition in terms of what would be a reasonable maximum. Conditioned in this way, I consider that the agricultural need for an increase in the throughput of green waste should attract significant weight in the planning balance.
36. It is undisputed that each of the three maturation pads subject to Appeals C and D would be capable of accommodating 8,000 tonnes of green waste per annum. Each pad is therefore needed in order to handle the proposed maximum annual green waste throughput of 23,500 tonnes. Given that the proposal is justified in terms of agricultural need it is necessary to consider the effect of the development regarding its impact on living conditions.

Living Conditions – Traffic noise

37. At the outset it is important to identify the scope of vehicle movements associated with the composting operation. Essentially these comprise i) early morning movements of HGVs from the farm to collect green waste loads which then return to site for delivery; ii) the onward transportation of sorted green waste to 'windrow' maturation pads; and iii) the transportation of finished product for deployment on various parts of the farm.
38. Mr Becker considers that the scope of the delivery and operating hours condition should be extended to encompass, not only deliveries but the early morning movement of empty HGVs leaving the farm in order to collect green waste. It should, in his view, also be extended to cover the transportation of finished compost around the farm and also the transportation of green waste by HGVs to the maturation pad at School Field.
39. The appellant's case is that there is no justification to control early morning departures of vehicles or the transportation of finished product. The basis for this position is the findings of a High Court decision in July 2018⁶.
40. This decision was partly concerned with a challenge to the variation of planning condition wording permitted by the Council. It was concluded in that case that the word "operations" in the original planning condition did not cover and therefore control the early morning departure of HGVs. The judge's reasoning

⁶ *Becker v Hertfordshire County Council & Alistair Pinkerton* [2018] EWHC 1974 (Admin)

was partly based on the consideration that such HGVs, having delivered green waste, would not be distinguishable from similar vehicles departing for other farm business and which would not be similarly controlled. The appellant, who acknowledges that vehicles leave the site to collect green waste prior to 7:30 in the morning, in order to avoid traffic congestion, therefore says that taking a different approach to the same type of vehicles, with the same impacts, would be unreasonable.

41. However it seems to me that this would be too simplistic an interpretation, because the High Court's decision was specifically concerned with the scope of the term "operations". By contrast, in this case an intensification of composting activity at the farm is proposed, which could potentially result in different impacts, including from vehicle movements. In the circumstances it would be remiss not to consider such impacts.
42. The question of controls over the transportation of compost away from the farm is also a matter that has previously arisen in the context of the aforementioned High Court challenge. The judgement rejected the argument that the Council had failed to have regard to the need to ensure that the compost is intrinsically linked to the agricultural operation at Blackbirds Farm. This was partly explained by the fact that the need to distribute finished product would offset the need that would otherwise arise to distribute bought-in compost and such an alternative scenario of placing reliance entirely on imported compost would simply form part of the existing agricultural use.
43. The Rule 6 party argues that this would not be the effect in reality, because if the compost was to be bought-in it would probably be stored at its point of use, rather than a single area of the farm, thus obviating the need to distribute all of it from a central hub location. Thus the traffic implications and impacts would vary between the two scenarios. In this regard there was agreement between the agricultural witnesses that it would be good practice to store compost at its point of use.
44. However Dr Gibbs, when questioned, did not say that it would be unreasonable for bought-in compost to be stored centrally. It seems to me that this could be motivated by security considerations or a desire to stockpile prior to taking decisions about where and when exactly to deploy. Furthermore it would not be unreasonable to think that bought-in compost may have the same or similar density to that produced on site, or that it could be used in conjunction with bought-in chemical fertilisers, meaning that a comparable number of transportation movements could be generated.
45. I am not therefore persuaded that there would, on the balance of probability, be a net material impact from the transportation of finished product. In any event, I concur with the appellant that the transportation, and storage, of finished product would not form part of the waste operation. It would, by this time, relate to the agricultural use of the site and as such would be exempt from planning control. This fallback scenario of buying in compost and fertilisers, in relation to which no strong evidence exists to indicate that it would be unlikely to occur, therefore leads me to conclude, on the balance of probability, that the transportation of finished product should be regarded as having a neutral impact. Accordingly I find that it would not be reasonable to seek to control the transportation of finished product.

46. The increase in the throughput of green waste would be reflected in a greater number of associated vehicle movements. A limit on the number of two-way HGV movements (16 on weekdays and 8 on Saturdays) in respect of green waste delivery is proposed, with a corresponding limit on the total number of two-way vehicle movements encompassing green waste (30 on weekdays and 16 on Saturdays). This compares with the original permission, as varied, which limits the total two-way HGV vehicle movements to no more than 10 on weekdays and 6 on Saturdays.
47. Control over the timing of green waste deliveries is proposed which would be restricted to between 7:30am and 5:00pm Monday to Friday and between 8:00am and 12:30pm on Saturdays.
48. The appellant's highway evidence included a transport statement which established a baseline position, based on traffic counts in 2017, of average weekday HGV traffic flows on Kemprow amounting to 102 two-way movements. HGVs accounted for some 25 per cent of traffic and would have included those associated with the farm. The wording of the condition as proposed allows for a potential increase of six two-way HGV movements on weekdays.
49. Mr Becker makes the point that ambient noise levels on Kemprow are very low, especially in the early morning. He points out that despite the transport survey findings, a vast majority of the HGVs surveyed were in the OGV1 classification. Heavier OGV2 vehicles, of the type that would be used for the transportation of green waste, are currently relatively small in number. The passing of heavier OGV2 vehicles, in particular the rattle of empty trailers, in his view results in greater disturbance. Accordingly he considers that, in this context, additional OGV2 vehicles would result in a noticeable harmful impact.
50. Whilst it appears to me that Mr Becker's property, Kemprow Farm, is situated sufficiently close to the adjacent highway for traffic to be audible from at least some internal rooms, I am not persuaded that there would be any significant variation in impact between the different types of HGV vehicle, in terms of noise generated passing along Kemprow. Indeed Mr Tucker, the appellant's transport consultant, expressed the view that there would be no difference in terms of amenity impact between the two sub-categories of vehicle. I have no reason to doubt his view that notwithstanding differences in vehicle size, because of load distribution, this would not necessarily mean that a larger category of HGV would create more noise and disturbance.
51. My view is strengthened in that any impact at all would be relatively short lived due to the fleeting passage of vehicles, which would be facilitated by the ability for two HGV vehicles to pass one another on the local road network and without any significant evidence of ongoing constraints to manoeuvring. Within the hours set by the proposed condition I concur with the view that such a limited degree of change, in terms of the number of green waste deliveries, is unlikely to be perceptible from a residential amenity perspective.
52. However as set out above, I need to include in my assessment early morning movements of HGVs bound for green waste collections. There have been representations from Mr Becker and another Kemprow resident that disturbance has resulted from such early morning vehicle movements.

53. I accept that Blackbirds Farm may not be the only source of such vehicle movements, given that it is known that other large vehicles operate, possibly uncontrolled, in connection with the scrap yard and sewage works located further along Kemprow. However, I am mindful of the Rule 6 party submission that Mr Tucker did not argue that the traffic surveys showed a baseline of significant early traffic movements. Indeed the data in the appellant's traffic survey would suggest that a significant majority of HGV movements on Kemprow occur between the hours of 7:00am and 7:00pm.
54. Furthermore, in this context I am mindful that a previous appeal in relation to a proposal for the processing of bread waste into animal feed⁷ was unsuccessful based on the Inspector's concerns regarding traffic related noise from vehicles manoeuvring in the early morning or late evening, when background noise levels are generally lower, such that an increase in noise levels, albeit briefly is that much more likely to be perceptible. Though I acknowledge that the Inspector's reasoning in that case does not exactly mirror my findings, it does underline that potential disturbance to residents at anti-social hours is a real and important material consideration.
55. It therefore seems to me that there is a strong case to say that noise associated with additional outbound green waste related vehicle movements in the early morning will have a material impact. I acknowledge the appellant's argument regarding the advantages of vehicles leaving the site early so as to avoid traffic congestion on the highway network. However, in the absence of evidence that any significant harm to business would result, I consider this to fall more in the category of inconvenience which would be outweighed by the residential amenity considerations.
56. I recognise that there may continue to be vehicle departures from the site in the early morning relating to other types of farm business that are not controlled. However I consider that this does not justify the unchecked growth of vehicle movements associated with the expansion of waste operations at the site. Because the density of green waste is recognised to be greater than that of finished compost, an argument that there is a fallback position of unregistered empty vehicles leaving the farm to 'bring in' compost does not apply in this scenario, as logically the number of vehicle movements required to fetch the waste would be expected to be greater.
57. I therefore consider that extending the hours of operation condition to cover outbound green waste vehicles would be justified. To my mind this would also be justified in terms of HGV movements connected to the transportation of green waste between the farm and School Field, albeit that any such movements are likely to be relatively short lived due to the requirements of the extant enforcement notice.
58. Whilst the appellant challenges the enforceability of such a condition, I would see no difficulty with the details of relevant HGVs being captured as part of the vehicle register condition.
59. Having arrived at the above conclusion, I am not however persuaded by the submission that the number of vehicle movements permitted would be disproportionate to the proposed throughput of waste. This is because

⁷ Ref APP/M1900/A/07/2033841

naturally there would need to be an allowance for the seasonal fluctuation in waste supply and therefore vehicle numbers. In addition, it seems to me that HGVs importing green waste, and vehicles transporting waste on the highway for onward maturation, whilst still needing to do so, would not necessarily be laden to capacity for each journey.

60. In any event I find, for the above reasons, that the proposed number of additional vehicle movements per se, subject to additional control in terms of hours of operation as discussed above, would not cause harm to living conditions from noise and disturbance. Subject to appropriate conditions, this consideration does not therefore weigh against the proposals.

Living Conditions – Odour

61. Mr Becker complains that there have regularly been occasions when odour arising from compost operations at Blackbirds Farm have caused harm to living conditions or have required the closing of windows or the avoidance of a garden.
62. I have taken into consideration that despite the prevailing wind direction being from the south-west, which would serve to carry any farm activity related waste odour away from his property, Mr Becker has recorded several incidences of odour nuisance during northerly winds.
63. I acknowledge the point made by Mr Becker that the Institute of Air Quality Management advises that in making an assessment of odour considerable weight should be given to observational findings. However it is significant, in my view, that the site has been visited on many occasions, notably by the Council, without any observations of offensive odour or nuisance. Whilst this is not to say that there has never been odour detected by the relevant authorities (I acknowledge that it has on occasion) context is important, as it would be reasonable to expect a degree of unpleasant odour as part and parcel of creating the right conditions for growing crops.
64. It is also the case that other residents living nearer than Mr Becker to the appeal sites have made no objection on odour grounds. Whilst there have been a significant number of objections, from local residents, in relation to odour attributable to the maturing of compost at School Field (a separate site under the appellant's control), that site is far nearer to residential properties than the present appeal sites are to Mr Becker's own property.
65. I am not persuaded from the evidence that increasing the throughput of green waste would result in more harmful odour impacts and I am mindful that the proposed maturation pads are further away still from the Rule 6 party's property and of the requirement for the appellant to maintain an odour management plan. It seems to me that there would be nothing unusually lenient, in principle, about relying on such a management plan to safeguard living conditions from any significant harm.
66. In relation to compliance to date, notwithstanding advice to the appellant from the Environment Agency to consider avoiding waste screening during northerly winds, there has not been any reason for the Council or the Environment Agency to impose any formal sanctions on the appellant with respect to green waste related odour generation. There is no compelling evidence that leads me

to conclude that the detailed wording of an effective odour management plan could not be formulated by the Council in conjunction with the Environment Agency.

67. There is undisputed evidence that the turning of waste on the maturation pads is necessary to avoid organic matter becoming anaerobic and thus generating odour. I therefore concur with the view that time-restricting this element of the process, and in the absence of evidence of any significant harm to the contrary, when also taking into account the separation between the Works Field maturation pads and the nearest residential properties, would be counter-productive.
68. Mr Becker has referred to unacceptable odour resulting from the passing of uncovered vehicles carrying partially matured waste to School Field. I also acknowledge that another resident of Kemprow has referred to previous experience of a horrendous odour apparent from unenclosed waste related vehicles. However I find that such an impact is likely to be fleeting in nature with the momentary passing of vehicles. The proposed daily increase in the amount of traffic carrying green waste to School Field, likely to be dispersed throughout the day to a degree, would not in my view result in a significant net adverse impact over the course of the day. In any event such impacts would only be temporary in duration, with the cessation of composting at School Field required by June 2021, due to an extant enforcement notice.
69. Drawing the above considerations together I conclude that the proposals to increase waste throughput and develop maturation pads would not result in any significant harm due to polluting odour. Subject to appropriate conditions this consideration does not therefore weigh against the proposals.

Other Matters

70. In terms of highway safety, I am mindful that the accident record in the locality does not reveal any significant collisions and there is no evidence to suggest that any highway related impacts from the proposals would be severe or that there would be harm to highway capacity. It was also confirmed at the Inquiry that the Highway Authority raises no objection to the wording of suggested conditions.
71. It is proposed to increase the extent of tree planting around the outside of the maturation pad areas and I am mindful that the Council take the view that, subject to conditions, there would not be an adverse visual impact on the surrounding landscape from the proposed developments. I have no reason to take a contrary view.

Conclusion and Green Belt Balance

72. Paragraph 11 of the Framework refers to the presumption in favour of sustainable development, whereby development according with an up-to date development plan should be approved. Otherwise, where the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of protective policies in the Framework provide a clear reason for refusal, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (the so-called 'tilted balance').

73. The appellant makes the point that the shortfall in waste capacity, as set out above, means that the County's Waste Site Allocations Development Plan Document (WSADPD) as adopted in July 2014, covering the period to 2026, must now be out of date. However whilst I have concluded that there is currently a shortfall in capacity, the WSADPD has not been placed before me in evidence and I am simply not persuaded that this document would encompass the most important policies for determining the current appeals. Rather, the most important policies are those which I have summarised earlier in this decision, relating to the control of waste management facilities, in relation to which there is no suggestion that any are not up to date and where it was already recognised within the supporting text to Policy 6 of the CS that there is a significant shortfall of waste management facility capacity in Hertfordshire. Whilst I acknowledge the Framework states that strategic policies should make sufficient provision for waste management, Policy 6 requires the need for the development to be taken into account and is not therefore inconsistent with this objective. Accordingly I conclude that the 'tilted balance' considerations are not engaged in this case.
74. In this context the Framework advises that substantial weight should be given to any harm to the Green Belt. The development of new and retention of the existing maturation pads (Appeals C and D) are by definition inappropriate development. Furthermore I have no reason to dispute the Council's findings that in each case the maturation pads would result in limited harm to the openness of the Green Belt. These are therefore considerations of substantial weight.
75. There are a number of counter-balancing considerations. I am mindful of the undisputed statement within the CS that over half of land in Hertfordshire is designated as Green Belt thus constraining potential locations for waste management; that there is a shortage in capacity for dealing with waste there and the proximity of the site to potential supplies of green waste. The principle of the green waste processing use at the farm has been established by the 2009 permission and therefore focussing more waste management capacity in a single location is in the interests of sustainable transport. Furthermore agricultural need has been satisfactorily demonstrated. I therefore consider that a compelling case around the need for the proposals has been demonstrated, both in capacity and agricultural terms, which attracts significant weight as set out earlier in the decision.
76. I also have no reason to dispute the Council's findings that the proposals, appropriately conditioned, would not result in harm to the character of the landscape or that they would not adversely impact upon living conditions. There is no evidence before me that the proposals would pose a danger to public health or would harm highway safety, capacity or public rights of way. Nor have I been provided with any information that would lead me to conclude that the proposals would conflict with any of the other criteria in Policies 6 and 11 of the CS, including requirements to protect natural and historic environments.
77. I therefore conclude that the proposed developments the subject of Appeals C and D comply with Policies 1A, 6, 11, 13 and 15 of the CS, Policy 5 of the LTP; and when read together Policies CS13 and CS16 of the HCS and Policies SADM20 and SADM26 of the DMPP, as summarised earlier in this decision. On

balance I therefore find that very special circumstances have been demonstrated sufficient to outweigh the harm to the Green Belt by way of inappropriateness and to its openness, when considering the developments individually or in combination with one another. The planning permissions should therefore be varied subject to new conditions.

78. In terms of Appeals A and B I consider that the proposed increased throughput of waste and HGV numbers would not be in conflict with the above policies for the aforementioned reasons. Subject to planning conditions, there is no reason to refuse planning permission. Even if my interpretation that these appeals do not in themselves relate to inappropriate development is incorrect and it is therefore necessary for very special circumstances to be demonstrated, I would then conclude, for the same reasons given above, including in relation green waste capacity and agricultural need, that such very special circumstances have been demonstrated and that accordingly the planning permissions should be varied subject to new conditions.

Conditions (Appeals A and B)

79. I have had regard to the conditions suggested and agreed by the Council and appellant and to those suggested by the Rule 6 party.
80. The usual three-year time limit for commencement condition should be applied. This should relate to the time of the original permissions in May 2019. I have concluded that any harm caused by the proposed increase to throughput and vehicle numbers can be mitigated by appropriate conditions. Accordingly it would not be appropriate to require a shorter commencement term as advocated by the Rule 6 party. However, in the interests of ensuring that adequate capacity is available, it would be reasonable to stipulate that the increased throughput of waste and HGV numbers permitted should not take place until the maturation pads at Works Field 1, 2 and 3 have been constructed and are available for use.
81. A condition is required limiting operating hours and the departure and arrival times of vehicles going out to collect green waste or delivering it to the site and the times for movement of green waste to School Field for the period that this site remains operational, in the interests of residential amenity. I have concluded that it would be unreasonable to include the turning of waste within such restrictions.
82. The maximum permitted throughput of green waste and its importation only via the reception centre should be stipulated; the re-sale of compost prohibited, and the extent of its use restricted (whilst recognising the need for reasonable flexibility as set out earlier in the decision) in the interests of controlling development in the Green Belt and protecting residential amenity.
83. The maximum storage height of green waste should be restricted in the interests of visual amenity and the surrounding landscape.
84. The number of vehicles relating to the delivery and movement of green waste should be controlled in the interest of highway safety, capacity and local amenity. It would be unnecessary to stipulate a temporary period for the movement of green waste to School Field as this would be governed by the compliance period in an extant enforcement notice in any event.

85. A condition requiring a register to be kept of vehicles departing to collect green waste; delivering green waste, and exporting green waste onto the highway (so long as there is the possibility of the latter continuing temporarily, whilst the School Field site remains in use) is required in the interests of highway safety, capacity and local amenity.
86. Conditions requiring compliance with noise emission limits, an odour management plan, a dust suppression scheme, no external floodlighting and an annual risk assessment are all required in order to protect the living conditions of local residents. Given the proposed changes to the amount of throughput the wording of the odour management plan will need to be changed and compliance with a subsequently agreed plan will be required before the permissions are implemented. However a condition requiring the covering of vehicles in the interests of helping to control odour emissions would in my view be excessive given the fleeting movement of vehicles and the intermittent nature of any impact.
87. With regard to Appeal B in particular, conditions are required concerning the maintenance of Blackbirds Lane and related visibility splays at the junction with Footpath 74 in the interests of highway and pedestrian safety.
88. A condition requiring the compost operation to cease in the event that maturation pads are not completed within a given period would be unreasonable and unnecessary, because of the fallback position of the extant 2009 permission, as varied, having been established. Furthermore, in light of the extant enforcement notice in relation to School Field and the lack of completed alternative maturation facilities at the farm, failure to complete the new maturation pads at Works Field would simply prevent the permitted increase in capacity being realised. Moreover, the wording of the commencement condition will require that throughput and HGV numbers are not increased until such time as the maturation pads at Works Field are completed.

Conditions (Appeals C and D)

89. The usual three-year time limit for commencement condition should be applied. This should relate to the time of the original permission in May 2019. As set out above a condition requiring earlier implementation of the maturation pads is not required as failure to do so would be self-regulating.
90. A condition confirming approved plans is required in order to promote certainty. The maximum permitted throughput of green waste and its importation only via the reception centre should be stipulated and conditions limiting operating hours (excluding waste turning), the departure and arrival times of vehicles, vehicle movement numbers, waste storage heights, noise emissions; and requiring vehicle registering, odour management, dust suppression, lighting control, an annual risk assessment and preventing the re-sale of compost and controlling the extent of its use, are all required for the reasons set out above.
91. I do not consider that conditions are required regarding the covering of vehicles or the movement or storage of compost for the reasons set out above and in the main part of the decision. Nor would a condition be needed to control

vehicle movements between the reception area and the Works Field as such movements would be within Blackbirds Farm, away from the highway.

92. In terms of ensuring the quality of compost produced at the site, I consider that it is sufficient to require adherence to the latest PAS100 standard. I am satisfied that expertise would be available to measure this. In terms of a requirement to achieve PAS100 accreditation I am mindful of the Council's evidence that there are no other similarly controlled sites and to my mind it would be unreasonable to single out this operation in this way.
93. In addition with regard to Appeal D, in particular, conditions are needed to require the implementation of approved landscaping details to protect the surrounding landscape; the submission and approval of details of drainage and the lagoon construction to prevent groundwater pollution and the submission and approval of a construction traffic management plan in the interests of highway safety and capacity.

Conclusion

94. For the reasons given above I conclude that the appeals should succeed. I will vary the planning permissions by deleting the disputed conditions and substituting others. In the interests of clarity I have set out below fresh schedules of conditions for each of the planning permissions.

Formal Decisions

Appeal A

95. The appeal is allowed and the planning permission Ref 01/1239-16 for "Section 73 Application to Increase the Maximum Throughput of Green Waste from 8,000 to 23,500 tonnes per annum" at Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS granted on 31 May 2019 by Hertfordshire County Council, is varied by deleting all conditions and substituting for them the conditions listed at 'Schedule of Conditions -Appeal A' below.

Appeal B

96. The appeal is allowed and the planning permission Ref 0/1076-18 for "Section 73 Application to vary the wording of Condition 6 of planning permission 0/1097-09 relating to the number of HGV movements" at Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS granted on 31 May 2019 by Hertfordshire County Council, is varied by deleting all conditions and substituting for them the conditions listed at 'Schedule of Conditions -Appeal B' below.

Appeal C

97. The appeal is allowed and the planning permission Ref 0/0144-18 for "Application for the continued use of an existing maturation pad (Works Field 1) for the processing of green waste and its conversion into compost for use as a fertilizer on land farmed by AF Pinkerton & Partners from its hub" at Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS granted on 31 May 2019 by Hertfordshire County Council, is varied by deleting all conditions and substituting for them the conditions listed at 'Schedule of Conditions -Appeal C' below.

Appeal D

98. The appeal is allowed and the planning permission Ref 0/1082-18 for "Application for the construction of two maturation pads (Works Field 2 and Works Field 3) to be used for the processing of green waste and its conversion into compost together with the creation of a lagoon to hold water draining from all three pads in Works Field and peripheral landscaping to include a screen bund" at Blackbirds Farm, Blackbirds Lane, Aldenham WD25 8BS granted on 31 May 2019 by Hertfordshire County Council, is varied by deleting all conditions and substituting for them the conditions listed at 'Schedule of Conditions - Appeal D' below.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS – APPEAL A

COMMENCEMENT

- 1) a. The development hereby permitted shall begin no later than 31 May 2022.
b. The increase in throughput and HGV movements hereby agreed shall not be implemented until such time as the maturation pads in Works Field 1, 2 and 3 have been completed, in accordance with the respective planning permissions, and are available for use.

GREEN WASTE THROUGHPUT

- 2) The maximum throughput of green waste delivered to the waste reception area granted in accordance with planning permission 0/1097-09 shall not exceed 23,500 tonnes per annum. No green waste shall be imported to any part of the compost operation other than via the reception area.

DELIVERY AND OPERATING HOURS

- 3) Unless prior approval in writing by the Waste Planning Authority has been given i) no HGVs shall depart the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) no deliveries of green waste shall take place to the Blackbirds Farm compost operation and iii) no HGV movements connected with the movement of green waste from the reception area on the highway shall take place except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned vehicle movements shall take place on Sundays or Public and Bank Holidays)

Unless prior approval in writing by the Waste Planning Authority has been given, no tipping, shredding, screening and loading of green waste shall be undertaken at any part of the compost operation except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned activities shall take place on Sundays or Public and Bank Holidays).

HEIGHT OF WASTE MATERIALS STORED ON SITE

- 4) No waste materials shall be stored, stacked or deposited at the compost operation over a height of 4 metres above ground level.

USE AND RESALE OF GREEN WASTE COMPOST

- 5) The compost generated from the green waste composting hereby permitted shall be wholly for use on land farmed by A F Pinkerton and Partners from its hub at Blackbirds Farm, and there shall be no re-sale of the compost under any circumstances.

VEHICLE MOVEMENTS (1)

- 6) HGV lorry movements delivering green waste to the Blackbirds Farm compost operation shall not exceed 16 (8 in, 8 out) per day on Mondays to Fridays and 8 (4 in, 4 out), on Saturdays.

VEHICLE MOVEMENTS (2)

- 7) Without prejudice to the limitation on HGV movements in condition 6, the total number of vehicle movements (including HGVs) in relation to the movement of green waste shall not exceed 30 movements (15 in, 15 out) per day entering/leaving the access onto Kemprow on Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) on Saturdays.

VEHICLE REGISTER

- 8) A single register shall be kept of all vehicles i) departing the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) delivering green waste to the Blackbirds Farm compost operation and iii) exporting green waste onto the highway from Blackbirds Farm. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported/exported) and the date and time of arrival or departure related to the compost operation.

NOISE

- 9) Noise levels arising from the operations hereby permitted shall not exceed 55dB(A) LAeq, 1h (free field) or the existing background noise levels (measurements in accordance with BS4142) by more than +10dB(LA90, 1h) at any noise sensitive property, whichever is the lower.

In the event of 55dB(A) LAeq, 1h (free field) or the existing background noise levels by more than +10dB(LA90, 1h) being exceeded, a full noise assessment shall be undertaken by the operator. Any noise control measures identified in the assessment shall be rectified.

ODOUR

- 10) There shall be no increase in the throughput of waste or the number of vehicle movements, as permitted by this permission, until the details of an odour management plan have been submitted to and approved in writing by the Waste Planning Authority, in consultation with the Environment Agency. Thereafter all operations associated with the green waste compost operation shall be carried out in accordance with the approved odour management plan.

DUST SUPPRESSION

- 11) All operations associated with the compost operations shall be carried out in accordance with the Dust Suppression Scheme as agreed under application 0/1097-09.

LIGHTING

- 12) No external floodlighting shall be erected at the compost operation without prior written approval of the Waste Planning Authority.

ANNUAL RISK ASSESSMENT

- 13) Throughout the lifetime of the operation hereby approved, an annual risk assessment shall be submitted to and approved in writing by the Local Planning Authority in accordance with details agreed under condition 17 of application 0/1097-09.

END OF SCHEDULE OF CONDITIONS – APPEAL A

SCHEDULE OF CONDITIONS – APPEAL B

COMMENCEMENT

- 1)
 - a. The development hereby permitted shall begin no later than 31 May 2022.
 - b. The increase in throughput and HGV movements hereby agreed shall not be implemented until such time as the maturation pads in Works Field 1, 2 and 3 have been completed, in accordance with the respective planning permissions, and are available for use.

GREEN WASTE THROUGHPUT

- 2) The maximum throughput of green waste delivered to the waste reception area granted in accordance with planning permission 0/1097-09 shall not

exceed 23,500 tonnes per annum. No green waste shall be imported to any part of the compost operation other than via the reception area.

DELIVERY AND OPERATING HOURS

- 3) Unless prior approval in writing by the Waste Planning Authority has been given i) no HGVs shall depart the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) no deliveries of green waste shall take place to the Blackbirds Farm compost operation and iii) no HGV movements connected with the movement of green waste from the reception area on the highway shall take place except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned vehicle movements shall take place on Sundays or Public and Bank Holidays)

Unless prior approval in writing by the Waste Planning Authority has been given, no tipping, shredding, screening and loading of green waste shall be undertaken at any part of the compost operation except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned activities shall take place on Sundays or Public and Bank Holidays).

HEIGHT OF WASTE MATERIALS STORED ON SITE

- 4) No waste shall be stored, stacked or deposited at the compost operation over a height of 4 metres above ground level.

USE AND RESALE OF GREEN WASTE COMPOST

- 5) The compost generated from the green waste composting hereby permitted shall be wholly for use on land farmed by A F Pinkerton and Partners from its hub at Blackbirds Farm, and there shall be no re-sale of the compost under any circumstances.

VEHICLE MOVEMENTS (1)

- 6) HGV lorry movements delivering green waste to the Blackbirds Farm compost operation shall not exceed 16 (8 in, 8 out) per day on Mondays to Fridays and 8 (4 in, 4 out), on Saturdays.

VEHICLE MOVEMENTS (2)

- 7) Without prejudice to the limitation on HGV movements in condition 6 the total number of vehicle movements (including HGVs) in relation to the movement of green waste shall not exceed 30 movements (15 in, 15 out) per day entering/leaving the access onto Kemprow on Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) on Saturdays.

VEHICLE REGISTER

- 8) A single register shall be kept of all vehicles i) departing the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) delivering green waste to the Blackbirds Farm compost operation and iii) exporting green waste onto the highway from Blackbirds Farm. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported/exported) and the date and time of arrival or departure related to the compost operation.

NOISE

- 9) Noise levels arising from the operations hereby permitted shall not exceed 55dB(A) LAeq, 1h (free field) or the existing background noise levels (measurements in accordance with BS4142) by more than +10dB(LA90, 1h) at any noise sensitive property, whichever is the lower.

In the event of 55dB(A) LAeq, 1h (free field) or the existing background noise levels by more than +10dB(LA90, 1h) being exceeded, a full noise assessment shall be undertaken by the operator. Any noise control measures identified in the assessment shall be rectified.

ODOUR

- 10) There shall be no increase in the throughput of waste or the number of vehicle movements, as permitted by this permission, until the details of an odour management plan have been submitted to and approved in writing by the Waste Planning Authority, in consultation with the Environment Agency. Thereafter all operations associated with the green waste compost operation shall be carried out in accordance with the approved odour management plan.

DUST SUPPRESSION

- 11) All operations associated with the compost operation shall be carried out in accordance with the Dust Suppression Scheme as agreed under application 0/1097-09.

LIGHTING

- 12) No external floodlighting shall be erected at the compost operation without prior written approval of the Waste Planning Authority.

ANNUAL RISK ASSESSMENT

- 13) Throughout the lifetime of the operation hereby approved, an annual risk assessment shall be submitted to and approved in writing by the Local Planning Authority in accordance with details agreed under condition 17 of application 0/1097-09.

MAINTENANCE OF BLACKBIRDS LANE

- 14) Throughout the lifetime of this planning permission, no remedial works to Blackbirds Lane shall be carried out until Rights of Way have given their approval to such works. The approved details shall be implemented in full.

MAINTENANCE OF VISIBILITY SPLAYS

- 15) Throughout the lifetime of this planning permission, the visibility splays must be maintained between Footpath 74 and Blackbirds Lane.

END OF SCHEDULE OF CONDITIONS – APPEAL B

SCHEDULE OF CONDITIONS – APPEAL C

TIME LIMIT FOR COMMENCEMENT

- 1) The development hereby permitted shall begin no later than 31 May 2022.

GREEN WASTE THROUGHPUT

- 2) The maximum throughput of green waste delivered to the waste reception area granted in accordance with planning permission 0/1097-09 shall not exceed 23,500 tonnes per annum. No green waste shall be imported to any part of the compost operation other than via the reception area.

DELIVERY AND OPERATING HOURS

- 3) Unless prior approval in writing by the Waste Planning Authority has been given i) no HGVs shall depart the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) no deliveries of green waste shall take place to the Blackbirds Farm compost operation and iii) no HGV movements connected with the movement of green waste from the reception area on the highway shall take place except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned vehicle movements shall take place on Sundays or Public and Bank Holidays)

Unless prior approval in writing by the Waste Planning Authority has been given, no tipping, shredding, screening and loading of green waste shall be undertaken at any part of the compost operation except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned activities shall take place on Sundays or Public and Bank Holidays).

HEIGHT OF WASTE MATERIALS STORED IN WORKS FIELD 1 MATURATION AREA

- 4) No waste shall be stored, stacked or deposited over a height of 4 metres above ground level within the Works Field 1 Maturation Area.

USE AND RESALE OF GREEN WASTE COMPOST

- 5) The compost generated from the green waste composting hereby permitted shall be wholly for use on land farmed by A F Pinkerton and Partners from its hub at Blackbirds Farm, and there shall be no re-sale of the compost under any circumstances.

VEHICLE MOVEMENTS (1)

- 6) HGV lorry movements delivering green waste to the Blackbirds Farm compost operation shall not exceed 16 (8 in, 8 out) per day on Mondays to Fridays and 8 (4 in, 4 out) on Saturdays.

VEHICLE MOVEMENTS (2)

- 7) Without prejudice to the limitation on HGV movements in condition 6, the total number of vehicle movements (including HGVs) in relation to the movement of green waste shall not exceed 30 movements (15 in, 15 out) per day entering/leaving the access onto Kemprow on Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) on Saturdays.

COMPOST QUALITY

- 8) The production of compost at the compost operation shall adhere to the latest relevant PAS100 standard.

VEHICLE REGISTER

- 9) A single register shall be kept of all vehicles i) departing the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) delivering green waste to the Blackbirds Farm compost operation and iii) exporting green waste onto the highway from Blackbirds Farm. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported/exported) and the date and time of arrival or departure related to the compost operation.

NOISE

- 10) Noise levels arising from the operations hereby permitted shall not exceed 55dB(A) LAeq, 1h (free field) or the existing background noise levels (measurements in accordance with BS4142) by more than +10dB(LA90, 1h) at any noise sensitive property, whichever is the lower.

In the event of 55dB(A) LAeq, 1h (free field) or the existing background noise levels by more than +10dB(LA90, 1h) being exceeded, a full noise assessment shall be undertaken by the operator. Any noise control measures identified in the assessment shall be rectified.

ODOUR

- 11) The maturation pad shall not be brought into use, nor shall there be any increase in the throughput of waste or the number of vehicle movements, as permitted by this permission, until the details of an odour management plan have been submitted to and approved in writing by the Waste Planning Authority, in consultation with the Environment Agency. Thereafter all operations associated with the green waste compost operation shall be carried out in accordance with the approved odour management plan.

DUST SUPPRESSION

- 12) All operations association with the compost operation shall be carried out in accordance with the Dust Suppression Scheme as agreed under application 0/1097-09.

LIGHTING

- 13) No external floodlighting shall be erected at the compost operation without prior written approval of the Waste Planning Authority.

ANNUAL RISK ASSESSMENT

- 14) Throughout the lifetime of the development hereby approved, an annual risk assessment shall be submitted to, and approved in writing by, the Waste Planning Authority in accordance with details agreed pursuant to condition 17 of planning permission 0/1097- 09.

APPROVED PLANS AND DOCUMENTS

- 15) The development hereby permitted shall only be retained in accordance with the following approved plans submitted with the application unless otherwise agreed in writing by the Waste Planning Authority:
 - a. Location Plan - BF/WF01
 - b. Works Field Maturation Pad and Access Track - 767.17.1

END OF SCHEDULE OF CONDITIONS – APPEAL C

SCHEDULE OF CONDITIONS – APPEAL D

TIME LIMIT FOR COMMENCEMENT

- 1) The development hereby permitted shall begin no later than 31 May 2022.

GREEN WASTE THROUGHPUT

- 2) The maximum throughput of green waste delivered to the waste reception area granted in accordance with planning permission 0/1097-09 shall not

exceed 23,500 tonnes per annum. No green waste shall be imported to any part of the compost operation other than via the reception area.

DELIVERY AND OPERATING HOURS

- 3) Unless prior approval in writing by the Waste Planning Authority has been given i) no HGVs shall depart the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) no deliveries of green waste shall take place to the Blackbirds Farm compost operation and iii) no HGV movements connected with the movement of green waste from the reception area on the highway shall take place except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned vehicle movements shall take place on Sundays or Public and Bank Holidays)

Unless prior approval in writing by the Waste Planning Authority has been given, no tipping, shredding, screening and loading of green waste shall be undertaken at any part of the compost operation except during the following hours:

7.30am – 5.00pm Monday to Friday; and

8am – 12.30pm on Saturdays (none of the aforementioned activities shall take place on Sundays or Public and Bank Holidays).

HEIGHT OF WASTE MATERIALS STORED IN WORKS FIELD 2 AND 3

- 4) No waste shall be stored, stacked or deposited over a height of 4 metres above ground level within the Works Field 2 & 3 Maturation Areas.

USE AND RESALE OF GREEN WASTE COMPOST

- 5) The compost generated from the green waste composting hereby permitted shall be wholly for use on land farmed by A F Pinkerton and Partners from its hub at Blackbirds Farm, and there shall be no re-sale of the compost under any circumstances.

VEHICLE MOVEMENTS (1)

- 6) HGV lorry movements delivering green waste to the Blackbirds Farm compost operation shall not exceed 16 (8 in, 8 out) per day on Mondays to Fridays and 8 (4 in, 4 out) on Saturdays.

VEHICLE MOVEMENTS (2)

- 7) Without prejudice to the limitation on HGV movements in condition 6, the total number of vehicle movements (including HGVs) in relation to the movement of green waste shall not exceed 30 movements (15 in, 15 out) per day entering/leaving the access onto Kemprow on Mondays to Fridays and no more than 16 vehicle movements (8 in, 8 out) on Saturdays.

COMPOST QUALITY

- 8) The production of compost at the compost operation shall adhere to the latest relevant PAS100 standard.

VEHICLE REGISTER

- 9) A single register shall be kept of all vehicles i) departing the Blackbirds Farm compost operation for the purpose of collecting green waste; ii) delivering green waste to the Blackbirds Farm compost operation and iii) exporting green waste onto the highway from Blackbirds Farm. The register shall be maintained, continually updated and made available for inspection upon the request of officers of the Waste Planning Authority during normal working hours. The register shall include the vehicle registration number, the nature and quantity of the load (tonnage of green waste imported/exported) and the date and time of arrival or departure related to the compost operation.

NOISE

- 10) Noise levels arising from the operations hereby permitted shall not exceed 55dB(A) LAeq, 1h (free field) or the existing background noise levels (measurements in accordance with BS4142) by more than +10dB(LA90, 1h) at any noise sensitive property, whichever is the lower.

In the event of 55dB(A) LAeq, 1h (free field) or the existing background noise levels by more than +10dB(LA90, 1h) being exceeded, a full noise assessment shall be undertaken by the operator. Any noise control measures identified in the assessment shall be rectified.

ODOUR

- 11) The maturation pads shall not be brought into use, nor shall there be any increase in the throughput of waste or the number of vehicle movements, as permitted by this permission, until the details of an odour management plan have been submitted to and approved in writing by the Waste Planning Authority, in consultation with the Environment Agency. Thereafter all operations associated with the green waste compost operation shall be carried out in accordance with the approved odour management plan.

DUST SUPPRESSION

- 12) All operations association with the compost operation shall be carried out in accordance with the Dust Suppression Scheme as agreed under application 0/1097-09.

LIGHTING

- 13) No external floodlighting shall be erected at the compost operation without prior written approval of the Waste Planning Authority.

ANNUAL RISK ASSESSMENT

- 14) Throughout the lifetime of the development hereby approved, an annual risk assessment shall be submitted to, and approved in writing by, the

Waste Planning Authority in accordance with details agreed pursuant to condition 17 of planning permission 0/1097- 09.

APPROVED PLANS AND DOCUMENTS

- 15) The development hereby permitted shall only be retained in accordance with the following approved plans submitted with the application unless otherwise agreed in writing by the Waste Planning Authority:
- Plan 1, Location plan received 26 July 2017
 - 799.18.1 Rev A March 2018 Site Layout
 - 799.18.6 Rev A April 2018 Proposed Levels
 - 799.18.7 Rev A April 2018 Proposed Sections
 - 799.18.8 April 2018

LANDSCAPING

- 16) Within the first planting season following the completion of construction of the maturation pads at Works Field, all planting shall be undertaken as per the scheme illustrated on drawing 799.18.8 and agreed in writing by the Waste Planning Authority.

DRAINAGE

- 17) Details of the drainage of the maturation pads shall be submitted to the Waste Planning Authority and drainage shall take place in accordance with the approved details.

LAGOON MATERIALS

- 18) Details of the materials to be used in the construction of the lining for the lagoon shall be submitted to the Waste Planning Authority for approval and works shall take place in accordance with the approved details.

CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- 19) Construction of the approved development shall not commence until a Construction Traffic Management Plan has been submitted and approved in writing by the Waste Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved plan. The Construction Traffic Management Plan shall include construction vehicle numbers/routing of construction traffic and shall be carried out as approved.

END OF SCHEDULE OF CONDITIONS – APPEAL D

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Turney of Counsel

He called:

Ian Prosser - Planning Consultant

FOR THE RULE 6 PARTY

Mr Ned Westaway of Counsel

He called:

Marc Becker – Local Resident

Peter Danks – Agricultural Consultant

FOR THE APPELLANT:

Mr Charles Streeten of Counsel

He called:

Jane Orsborn – Agent

Simon Tucker – Transport Consultant

Dr Paul Gibbs – Agricultural Consultant

INTERESTED PERSONS:

Adam Aarons – Local Resident

Chris Lack – Local Resident

DOCUMENTS SUBMITTED AT AND FOLLOWING THE INQUIRY:

1. Hertfordshire County Council report 0/0966-17: CLEUD application for green waste composting.
2. Rule 6 / Council email correspondence with regard to public health and waste supply matters.
3. Email exchange with appellant's solicitors in relation to information requested by Rule 6 party.
4. Peter Danks – Statement of Truth
5. Council's Inquiry notification letter 26 August 2020
6. Appellant's supporting Planning report – June 2009
7. ATC Classifications Document
8. Hertfordshire County Council committee report 0/1097-09
9. Chris Lack – Various photographs relating to School Field
10. Adam Aarons – Correspondence with Environment Agency and Council including photographs and video clip
11. Councillor Caroline Clapper – representations regarding appeals
12. Marc Becker – Video clip of waste operation
13. Appellant's statutory declaration – May 2017
14. Costs applications and rebuttal letters – Appellant and Rule 6 party
15. Correspondence from the parties relating to revised schedules of conditions