



## Appeal Decision

Site Visit made on 18 February 2025

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> July 2025

### Appeal Ref: APP/J0405/C/24/3349086

### Land to the Rear of Masons Meadow, Aylesbury Road, Aston Clinton, Buckinghamshire, HP22 5NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mason Grab Hire against an enforcement notice issued by Buckinghamshire Council - North Area (Aylesbury) (the LPA).
- The notice was issued on 28 June 2024.
- The breach of planning control as alleged in the notice is, without planning permission, the material change of use of land to a mixed use comprising the storage, importation, deposit, processing, transfer and storage of waste materials and primary aggregates, the preparation and distribution of ready-to-mix concrete, the parking and storage of vehicles, plant and machinery and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank, the erection of a building and creation of earth bunds.
- The requirements of the notice are:
  - 1) Cease the use of the Land for the importation, deposit and processing of waste material and primary aggregates and the preparation and distribution of ready-to-mix concrete.
  - 2) Cease the use of the Land for the parking and storage of vehicles, plant and machinery.
  - 3) Cease the use of the Land for the stationing of mobile homes for residential purposes, by removing the mobile homes including any bases and connections.
  - 4) Remove all residential paraphernalia from the Land, including, but not limited to, vehicles, tables, chairs, plants, astro turf.
  - 5) Remove all items, shipping containers, lorry backs, vehicles, skips, plant and machinery not required for the lawful use of the land, from the Land.
  - 6) Remove the mobile batching plant and any associated structures, plant or tanks, from the Land.
  - 7) Remove the outbuilding marked with an 'O' on the attached Plan 2, from the Land, including any structural supports.
  - 8) Remove the concrete storage bays and walls marked with an 'S' on the attached Plan 2, from the Land.
  - 9) Remove the vehicle and plant washing bay facility marked with an W on the attached plan including any associated connections or tanks/storage facilities, on, under or over the land, from the Land and backfill where necessary with earth.
  - 10) Remove the fuel storage structure marked with an 'F' on the attached Plan 2, including any associated connections or tanks/storage facilities, on, under or over the land, from the Land and backfill where necessary with earth.
  - 11) Remove all hardstanding from the areas shown hatched in black on the attached Plan 2, from the Land.
  - 12) Remove all imported and stored waste material, primary aggregate, soil and other materials from the Land.
  - 13) Remove the earth bunds (shown in approximate locations and cross hatched in black on the attached Plan 1, from the Land.
- The periods for compliance with the requirements are: 1 month for Step 1, 6 months for Steps, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, and 9 months for Steps 12 and 13.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

## FORMAL DECISION

1. It is directed that the enforcement notice be corrected by:

- the insertion of 'Plan 3' annexed to this decision into the enforcement notice;
- the deletion of the words:

“without planning permission, the material change of use of land to a mixed use comprising the storage, importation, deposit, processing, transfer and storage of waste materials and primary aggregates, the preparation and distribution of ready-to-mix concrete, the parking and storage of vehicles, plant and machinery and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank, the erection of a building and creation of earth bunds”;

from section 3 of the notice and their substitution with the words:

“without planning permission, the material change of use of the Land, including the buildings contained therein, to a mixed use comprising the storage, importation, deposit, processing and transfer of waste materials and primary aggregates, the preparation and distribution of ready-to-mix concrete, the parking and storage of vehicles, plant and machinery and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank, the erection of a building and creation of earth bunds”.

2. And varied by:

- the deletion of the words “6 months” and the substitution of the words “12 months” as the time for compliance in Step 3 of Section 5 of the notice.

3. Subject to the corrections and variations, the appeal is allowed insofar as it relates to the land hatched in black on Plan 2 attached to the notice and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the material change of use of the land identified as “Area B” on Plan 3 attached to the notice, as corrected, and the buildings contained therein to a mixed use comprising the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank and the erection of a building at Land to the Rear of Masons Meadow, Aylesbury Road, Aston Clinton, Buckinghamshire, HP22 5NE and subject to the conditions set out in the Schedule to this decision.

4. The appeal is dismissed, and the enforcement notice is upheld, as corrected and varied, and planning permission is refused in respect of the material change of use

of the Land to a to a mixed use comprising the storage, importation, deposit, processing and transfer of waste materials and primary aggregates and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the creation of earth bunds on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

## **Procedural Matters**

5. The appeal was initially brought on grounds (d), (a), (f) and (g) of S174 of the Act and was to be determined by the Public Inquiry procedure. However, the appellant withdrew their appeal on ground (d) on 1 November 2024. As a consequence, the parties agreed to a change in procedure to Written Representations. The appeal has therefore proceeded on that basis.

## **The Notice**

6. The alleged breach set out in the notice includes the erection of a building. That building is annotated as “O” on the plan attached to the notice. However, the LPA indicates that two buildings, annotated as B1 and B2 on the plan it has produced with its statement, are lawful but not for the unlawful use which has taken place on that part of the Land. The LPA suggests that the notice is corrected to include in the allegation the erection of those two buildings. However, since the erection of the buildings themselves is lawful the notice cannot be directed against their erection, since it would not amount to a breach of planning control. Nonetheless, I can correct the allegation to make clear the alleged use was taking place on the Land and the buildings at the time the notice was issued. The appellant takes no issue with the matter. I am satisfied I can make the correction without injustice to the appellant or the LPA.
7. To assist in the identification of the buildings and the parcels of the Land referred to in evidence, I will correct the notice to add the plan appended to the LPA’s appeal statement.
8. In section 3 of the notice, there is a superfluous second reference to storage in the alleged breach. I can correct the notice to delete it accordingly without injustice to the appellant or the LPA.

## **Appeal on ground (a)**

### *Preliminary Matters*

9. An appeal on ground (a) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
10. S177(5) of the Act states that, where an appeal on ground (a) is brought, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.
11. S177(1) of the Act sets out that, on the determination of an appeal under S174, the Secretary of State may, (a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates.

12. Thus, it is only open to me to consider the grant of planning permission for the breach alleged in the notice, either in whole or in part.
13. The appellant's case on ground (a) is firstly predicated on the basis that there are two distinct, separate areas within the Land. They are referred to area "A" as the southern part of the Land, and area "B" as the northern part.
14. However, the Land is only identified in its entirety by the notice and its attached plan. The fact is the notice is directed against a mixed use of the Land as a whole. The concept of a mixed use is two or more primary uses existing within the same planning unit. One is not incidental to the other.
15. The planning unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use. The general rule has always been that the materiality of change should be assessed in terms of the whole site concerned. In *Burdle*<sup>1</sup> it was held that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. The concept of physical and functional separation is key. Three broad categories of distinction were set out in *Burdle*. They are:
  - a) a single planning unit where the unit of occupation has one primary use and any other activities are incidental or ancillary;
  - b) a single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and
  - c) the unit of occupation comprises two or more physically separate areas which are occupied for different and unrelated purposes. Each area that has a different primary use ought to be considered as a separate planning unit.
16. In this instance, the unit of occupation comprises the entirety of the Land to which the notice relates. Whilst it is under two separate Land Registry titles, it is entirely owned by the appellant.
17. In this case, the two areas of the Land are not physically separate from one another. I was able to see from my site visit that one is able to freely move between the two parts of the site without any physical impediment. Moreover, the Land as a whole is served by a single access point within "Area B". Furthermore, the entire site is served by a general office located in "Area B" which it is said services the administrative needs of the appellant company.
18. In addition, it is indicated that the mobile homes have at various points been relocated within the site and the appellant's case is predicated on the basis that one of the mobile homes is to accommodate a site security guard for the appellant company. To that end, whilst parts of the site may be used for different purposes, the evidence before me clearly suggests that those purposes are not unrelated and that there is no physical and functional separation. As a result, I am satisfied the Land comprises a single planning unit

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<sup>1</sup> *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207

19. Secondly, the ground (a) case is made on the basis that planning permission should be granted for inert materials processing operations within “Area A” for a temporary period of 3 years.
20. However, that is not how the use is described in the alleged breach of planning control. Likewise, the appellant is seeking planning permission for only one of the mobile homers, rather than the two against which the notice is directed.
21. Moreover, the appellant’s case on ground (a) is also put forward on the basis that permission be granted within “Area B” for commercial and industrial use encompassing a mixed-use including activities within a combination of Use Class B2, B8, E and sui-generis. Such a description of development is far broader than the alleged breach, which, aside from the waste/aggregates and residential uses, targets primary uses of the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery within the overall mixed use. Regardless of whether or not the LPA have agreed to the description, it is a far wider description of development and does not form part of the matters. Moreover, whilst it might be the case that such a description of uses is currently ongoing on the Land, what matters for the purpose of the ground (a) is the development stated in the notice as constituting a breach, an appeal on ground (a) cannot be used as a vehicle to grant planning permission for a different, subsequent development. Thus, it is not open to me to consider granting planning permission for the description of development put forward by the appellant under the ground (a) appeal.
22. As a result, the ground (a) must proceed on the basis that planning permission is sought for the material change of use of the Land to a mixed use comprising the storage, importation, deposit, processing and transfer of waste materials and primary aggregates, the preparation and distribution of ready-to-mix concrete, the parking and storage of vehicles, plant and machinery and the stationing of mobile homes for residential occupation, along with the associated operational development. It is only open to me to grant permission for those matters either in whole or in part.
23. I invited the parties’ comments on this matter, noting my points above. As a consequence, the appellant responded to indicate that it would be open to me to consider the ground (a) appeal on the basis that planning permission be granted for the mixed use in part, namely:

“Within the area marked Area B (shown cross hatched upon plan 17270 / Area B Plan hereby attached) the following mixed use is allowed: the preparation and distribution of ready-to-mix concrete and parking and storage of vehicles, plant and machinery, along with the operational development referred to in the breach, namely: the laying of hardstanding, construction of storage bays, construction of a vehicle and plant washing facility, installation of a fuel storage facility, siting of a concrete batching plant and associated tank, erection of a building (i.e. relating to Building 4 on the attached plan)
24. The appellant submits that the suggested mixed use forms part of the description of the mixed use in the alleged breach. The LPA submits that it also agrees. I see no reason to conclude otherwise.
25. It is also submitted that it is open to me to decouple the residential use and storage of waste materials and primary aggregates elements of the breach which

have occurred in “Area A”. The appellant does not seek to defend the appeal on ground (a) in respect of those components and thus accepts the notice should be upheld insofar as applicable. The LPA submits that it also agrees with such an approach. Again, I see no reason to conclude otherwise.

26. I have therefore determined the appeal on ground (a) on that basis.

### *Main Issues and Reasons*

27. The main issues between the parties were:

- whether the Land is an appropriate location for the development;
- the effect of the development on the character and appearance of the area;
- the effect of the development on the living conditions of neighbouring properties with particular regard to visual impact, noise, dust and air quality;
- whether the development makes appropriate provision for electric vehicle charging points;
- the effect of the development on highway safety;
- the effect of the development on biodiversity; and,
- whether there is a need for a worker to live on the Land close to their place of work.

28. However, the LPA has now confirmed that it supports use of the area referred to as “Area B” for “the material change of use of that part of the Land and the buildings contained therein to a mixed use comprising the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank and the erection of a building” subject to conditions. On the basis of the evidence before me, I see no reason to disagree that such a use on that part of the Land would be acceptable. I will deal with the suggested conditions in turn.

29. The Council does not support a residential use of the appeal site or any waste processing activities on the Land. Nonetheless, the appellant has confirmed that it no longer contests the appeal on ground (a) insofar as it relates to “the material change of use of the Land to a mixed use comprising the storage, importation, deposit, processing and transfer of waste materials and primary aggregates, and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the creation of earth bunds”.

30. The appellant does indicate that, as part of the preparation and distribution of ready-to-mix concrete, it would be necessary to store primary and recycled aggregate within bays on “Area B”. The LPA indicates that the storage of aggregates in “Area B” would be unacceptable. However, it seems to me that such storage would be part and parcel of the concrete use, which the LPA does consider to be acceptable, rather than a separate primary use as part of a mixed use as the notice alleges. I am satisfied that any impacts arising from the storage

of aggregates solely in connection with the concrete use, could be suitably mitigated through an appropriately worded condition requiring only the storage of aggregates necessary for the concrete use and for their storage to be restricted to storage bays.

31. On that basis, the parties are in agreement regarding the outcome of the ground (a) appeal, subject to conditions, I see no reason why, on the evidence before me, I should come to a contrary view.
32. I conclude that, “the material change of use of that part of the Land identified as “Area B” on the plan attached to the notice, as corrected, and the buildings contained therein to a mixed use comprising the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank and the erection of a building”, accords with the development plan as a whole and there are no material considerations which indicate otherwise. Consequently, the appeal on ground (a) should succeed in relation to that part of the matters only.
33. I also conclude that, “the material change of use of the Land to a mixed use comprising the storage, importation, deposit, processing and transfer of waste materials and primary aggregates, and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the creation of earth bunds”, would not accord with the development plan as a whole and there are no material considerations which indicated otherwise. Consequently, the appeal on ground (a) should fail in relation to that part of the matters.

#### *Conditions*

34. The LPA suggests a condition requiring the development to be carried in accordance with submitted details, including an annotated site plan, a site layout plan and a lighting scheme. Moreover, a separate condition is suggested which restricts external lighting other than those agreed.
35. However, the development has already been carried out. Furthermore, the appellant indicates that the existing external lighting would be maintained, which comprises four 8m high pole mounted lights which operate on a dusk-to-dawn basis and face away from residential properties. As a result, I find such conditions are not necessary.
36. A condition is suggested which restricts the times of operations, including the movement of lorries to Mondays to Fridays between 0730 and 1900 and 0730 and 1300 on Saturdays and at no other times. I agree such a condition is necessary to protect the living conditions of nearby residents.
37. The LPA suggests a condition is necessary to require lorries leaving the site to be sufficiently clean of mud to prevent it being carried on to the highway. I agree such a condition is necessary to prevent harm to highway safety.
38. A condition is suggested regarding the submission of a noise assessment, including monitoring and mitigation measures, within three months of the approval. The appellant has suggested an alternative condition which is worded differently to

clarify the three elements of the condition. I agree a condition for noise assessment, monitoring and mitigation is necessary, however, when requiring something to be done by condition in retrospective cases, it is necessary for the condition to also carry a sanction for non-compliance to ensure it is enforceable. The standard sanction is for the use to cease if the requirements are not carried out in the specified timescale. In the suggested wording from the parties, if the noise assessment is not submitted in three months of the date of this decision, then the only power available to the LPA would be to enforce against the breach of condition, not development without planning permission. Therefore, whilst I find the condition to be necessary to make the development acceptable it can only be made enforceable by the inclusion of such a sanction. The appropriate sanction in this instance would be for the mixed use to cease and associated operational development to be demolished in the event the noise assessment is not submitted within three months of the date of decision. I have also incorporated the LPA's suggested separate condition regarding the implementation of mitigation measures. Such a condition is necessary to prevent harm to the living conditions of nearby residents with regard to noise, as are conditions to cease operations on the site if the approved noise levels are exceeded and conditions requiring no use of audible warnings on reversing vehicles.

39. The appellant argues that the suggested condition regarding reversing warning should only apply to vehicles under its control. However, as the site operator, it has control over which vehicles enter the Land. Thus, it seems to me the operator should make provision for vehicles which are unowned by them, but which use the site, to comply with the condition. A condition which does not cover third party vehicles would not suitably overcome the potential harm to the living conditions of local residents.
40. The parties are in agreement that a surface water drainage scheme is required to be submitted and agreed. I agree such a condition is necessary to prevent an increased risk of flooding. However, as with the noise assessment, it is necessary for the condition to be framed with a sanction in the event of non-compliance.
41. Likewise, the parties agree a condition relating to a dust management scheme is necessary to prevent harm to the living conditions of nearby residents. I agree, however, again, such a condition should be subject to a sanction.
42. Conditions relating to the height of stockpiles of waste and processed materials, requiring the submission of a method statement for waste material, and for the removal of waste material from "Area A", are not necessary since planning permission will not be granted for that aspect of the breach of planning control.
43. The LPA suggests a condition requiring a scheme relating to parking, manoeuvring and loading/unloading to be submitted within three months. However, the site shares the access from the public highway with the adjacent Seven Acre Farm Business Centre whilst the approved development will not result in a significant increase in vehicles. Moreover, the access drive is around 180m in length and I saw from my site visit it is of sufficient width for two vehicles can pass one another. As a result, it is unlikely that the development will give rise to vehicles obstructing vehicles on the public highway. I therefore find such a condition is not necessary.
44. A condition requiring the reinstatement of a native hedgerow between "Area A" and "Area B" in the first planting season following compliance with the enforcement

notice is necessary to ensure losses to biodiversity are appropriately compensated.

45. However, conditions requiring the provision of a ditch where one previously did not exist, the submission of a Statutory Biodiversity Metric and Impact Assessment and a Habitat Management and Monitoring Plan are not necessary, since Biodiversity Net Gain does not apply to planning permissions granted through successful enforcement appeals.
46. The LPA suggests a condition for a management plan to deal with effluvia on the site to be submitted. However, the approved use comprises inert materials. There are no materials that would give rise to odour or gaseous waste. Such a condition is not therefore necessary.
47. A condition requiring HGVs to be sheeted is necessary to prevent mud on the highway in the interests of highway safety. Finally, a condition for the submission of a Traffic Management Plan is necessary in the interests of highway safety. Again, however, it is necessary to include a sanction to ensure the condition is enforceable.

### *Conclusions*

48. For the reasons given above I conclude that the appeal on ground (a) should succeed in part only, and I will grant planning permission for the material change of use of the Land identified as “Area B” on Plan 3 attached to the notice, as corrected, and the buildings contained therein, to a mixed use comprising the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank and the erection of a building, subject to conditions.
49. Otherwise, I will uphold the notice, with corrections and variations, and refuse to grant planning permission in respect of the material change of use of the Land to a mixed use comprising the storage, importation, deposit, processing, transfer and storage of waste materials and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the creation of earth bunds.
50. The following requirements contained in the notice will remain, they will not be deleted from the notice to avoid the unconditional grant of planning permission under S173(11) of the Act:
  - to cease the use of the Land for the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery; and,
  - to remove: all items, shipping containers, lorry backs, vehicles, skips, plant and machinery; mobile batching plant and associated structures, plant or tanks; the outbuilding; the concrete storage bays and walls; the vehicle and planting washing bay facility; the fuel storage structure; and, the hardstanding.

51. However, the effect of the grant of planning permission for those parts of the breach of planning control are that, in accordance with S180(1) of the Act, the notice will cease to have effect insofar as it is inconsistent with that permission.

### **Appeal on ground (f)**

52. An appeal on ground (f) is brought on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. It seems to me that the purpose of the notice is to remedy the breach of planning control by restoring the Land to its condition before the breach took place.
53. As I have set out, the requirements which are inconsistent with the grant of planning permission for, “the material change of use of the land identified as “Area B” on Plan 3 attached to the notice to a mixed use comprising the preparation and distribution of ready-to-mix concrete and the parking and storage of vehicles, plant and machinery, facilitated by operational development comprising the laying of hardstanding, the construction of storage bays, the construction of a vehicle and plant washing facility, installation of a fuel storage facility, the siting of a concrete batching plant and associated tank and the erection of a building”, will remain but the notice will cease to have effect in respect of them.
54. The requirements to cease the use of the Land for the importation, deposit and processing of waste material and primary aggregates; cease the use of the Land for the stationing of mobile homes for residential purposes, by removing the mobile homes including any bases and connections; to remove all residential paraphernalia from the Land, including, but not limited to, vehicles, tables, chairs, plants, astro turf, remove all items, shipping containers, lorry backs, vehicles, skips, plant and machinery not required in respect of the mixed use for which permission is granted, all imported and stored waste material, primary aggregate, soil and other materials from the Land and to remove the earth bunds from the Land, do not go beyond what is necessary to remedy the breach of planning control by restoring the Land to its condition before the breach took place.
55. The appeal on ground (f) therefore fails.

### **Appeal on ground (g)**

56. An appeal on ground (g) is brought on the basis that the time for compliance given in the notice is too short.
57. Insofar as is relevant to those requirements which will still have effect following the grant of planning permission for part of the matters, the notice requires the cessation of the use of the Land for the importation, deposit and processing of waste material and primary aggregates within 1 month. It requires the cessation of the Land for the stationing of mobile homes for residential purposes by removing the mobile homes within 6 months, with the same timescale for the removal of all residential paraphernalia. Any items, shipping containers, lorry backs, vehicles, skips, plant and machinery which are situated on the Land in connection with the mixed use for waste and residential would need to be removed within 6 months. All imported and stored waste material, primary aggregates, soil and other materials are to be removed within 9 months, as are the earth bunds.

58. The appellant argues that the period for compliance with the requirement to cease the use of the Land for the importation, deposition and processing of waste material and primary aggregates should be extended to 3 years.
59. It is said that the business will need to be relocated and a period of 12-18 months would be required for site search and acquisition, 6-10 months for planning permission to be granted, 8-10 months for environmental permitting and 1-2 months for commissioning.
60. However, there is little substantive evidence to support the appellant's claims. In any event, whilst I acknowledge that the effect of the cessation of the use could result in the loss of employment and other financial benefits, a period of 3 years would in essence be the same as the grant of temporary planning permission for the same period. As set out above, such a use is unacceptable in planning terms. To that end, a period of 3 years would not deal with the planning harm with the necessary expediency and would unduly prolong it.
61. As a result, I see no physical or practical impediment to ceasing the use within 1 month. Likewise, a timescale of 6 months for the removal of any items, shipping containers, lorry backs, vehicles, skips, plant and machinery which are situated on the Land in connection with the mixed use for waste and residential seems to me to be an appropriate timescale. Finally, a period of 9 months for the removal of the imported and stored waste material, primary aggregates, soil and other materials would suitably ensure the appellant has sufficient time to relocate the material whilst dealing with the planning harm with the necessary expediency.
62. In terms of the cessation of the residential use, given the personal circumstances of the current occupier as outlined in the appellant's submissions, I am satisfied that an extended period of 12 months would suitably balance the need to remedy the breach of planning control with the individual circumstances of the occupier. I will vary the notice accordingly.
63. The appeal on ground (g) therefore succeeds but only to a limited extent.

## **Human Rights**

64. The loss of a person's home would be an infringement of their rights under the Human Rights Act 1998 (HRA). The cessation of the use of the Land for residential purposes would amount to interference and would engage the right for respect for private and family life, home and correspondence set out in Article 8 of the HRA. This is a qualified right, whereby interference may be justified if in the public interest, applying the principle of proportionality.
65. The consequence of dismissing the appeal would be that the occupants of the caravans would lose their home. However, the notice, as corrected, provides a 12-month compliance period which would allow them time to find an alternative home. Furthermore, there is no indication that those persons would necessarily be made homeless beyond that date.
66. The planning harm identified in respect of the material change of use of the Land to a mixed use comprising the storage, importation, deposit, processing and transfer of waste materials and primary aggregates and the stationing of mobile homes for residential occupation, facilitated by operational development comprising the creation of earth bunds, are of such weight that upholding the

notice would be a proportionate and necessary response that would not violate those persons rights under Article 8 of the HRA. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

*J Whitfield*

**INSPECTOR**



## Plan 3

This is 'Plan 3' referred to in my decision dated: 1<sup>st</sup> July 2025

by J Whitfield BA(Hons) DipTP MRTPI

Land to the Rear of Masons Meadow, Aylesbury Road, Aston Clinton, Buckinghamshire, HP22 5NE

Reference: APP/J0405/C/24/3349086

Scale: Not to scale



## SCHEDULE OF CONDITIONS

- 1) The use hereby permitted, including the movement of lorries entering or leaving the site, shall only take place between the following hours:
  - a. 0730-1800 Mondays - Fridays
  - b. 0730-1300 Saturdays
- 2) Lorries shall not leave the site unless their wheels are sufficiently clean to prevent mud being carried on to the public highway.
- 3) The use and operations hereby permitted shall cease and be demolished to ground level within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i. Within 3 months of the date of this decision, a noise assessment identifying noise-sensitive receptors, shall be submitted for approval to the Local Planning Authority.

For each receptor the assessment shall include:

- a. the LA90, 1 hour representative background noise level measured when the development hereby permitted is not active i.e. when no plant is being run, no associated vehicle movements are in occurrence, no handling or placing of skips or other containers, no depositing, sorting or processing of waste including manual handling is occurring and no maintenance of plant or vehicles is being carried out;
    - b. Determination of the LAeq, 1 hour operational noise level from the site within each curtilage
    - c. Assessment of the impact in accordance with the requirements of British Standard 4142:2014+A1:2019; and
    - d. Any mitigation measures required to reduce operational noise levels (measured as LAeq, 1 hour) so that they do not exceed a maximum of 10 dB above the LA90, 1hr representative background noise level under free-field conditions and a timetable for their implementation.

The noise assessment shall include a noise monitoring strategy which will identify:

- a. acceptable noise levels (dB LAeq, 1 hour) from the operations in the curtilage of the identified receptors;
    - b. Suitable noise measurement points at the site boundary and calculated noise limits at these boundary measurement points which, if not exceeded, will ensure that the noise levels within the curtilage of the receptors are not exceeded.
    - c. The frequency of the monitoring.

Noise monitoring is to be undertaken within the agreed frequency and within one month of any request by the Local Planning Authority. A suitably qualified person shall undertake operational noise surveys at the boundary locations identified.

Technical reports setting out the measured noise levels will be submitted to the Local Planning Authority within three weeks of carrying out of the measurements.

- ii. If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv. Any noise mitigation measures identified in the noise assessment shall be implemented in accordance with the approved timetable for implementation included in the noise assessment.

Upon implementation of the approved noise assessment specified in this condition, the requirements of that assessment shall thereafter retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Noise from the development hereby permitted shall not exceed the levels identified in the noise assessment at the noise sensitive receptors as measured at the boundary measuring points approved in the noise assessment approved pursuant to condition 3. Should the measured noise levels exceed the permitted levels, no further operations related to the development shall be carried out until additional noise mitigation levels have been submitted for approval to the local planning authority.
- 5) Tonal reversing alarms may not be used on plant and vehicles using the site. Only broadband or white noise alarms may be used.
- 6) The use and operations hereby permitted shall cease and be demolished to ground level within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i. Within 3 months of the date of this decision a detailed surface water drainage strategy scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall have been submitted for the written approval of the local planning authority. The submitted details shall:
    - 1. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
    - 2. Include a timetable for its implementation; and,
    - 3. Provide, a management and maintenance plan for the lifetime of the development which shall include the

arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details within two months of approval by the Local Planning Authority. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan

- ii. If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) The use and operations hereby permitted shall cease and be demolished to ground level within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
- i. Within 3 months of the date of this decision a dust management scheme setting out the measures to be taken as necessary to lay dust and prevent the deposit of dust outside the boundary of the site shall have been submitted for the written approval of the local planning authority.
  - ii. If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv. The approved scheme shall have been carried out and completed within two months of approval.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the

operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 8) Within the first planting season after the cessation of the use of the Land for the importation, deposit and processing of waste material and primary aggregates, the hedgerow between 'Area A' and 'Area B' shall be reinstated with native species of local provenance.
- 9) No laden Heavy Goods Vehicles shall access or egress the site without being securely sheeted.
- 10) No aggregates shall be stored on the site other than those solely required for the preparation and distribution of ready-to-mix concrete. Such aggregates shall only be stored in the hereby approved storage bays in "Area B" and at no other part of the site.
- 11) The use and operations hereby permitted shall cease and be demolished to ground level within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i. Within 3 months of the date of this decision, a Traffic Management Plan (TMP) including HGV movements, routings and internal site manoeuvring, shall have been submitted for the written approval of the local planning authority and the TMP shall include a timetable for its implementation.
  - ii. If within 11 months of the date of this decision the local planning authority refuse to approve the TMP or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted TMP shall have been approved by the Secretary of State.
  - iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- b. Upon implementation of the approved TMP specified in this condition, that TMP shall thereafter retained.
- c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.