To Sally-Ann – to file on DBC applic file LK

Appeal Decision

The Planning Inspectorate
Tollgate House,
Houlton Street
Bristol BS2 9DJ
0117 987 8927

DoP	ED	DP	DC	BC	SS

Rec'd. 23 JUN 2000 File

Comments :

PLANNING DEPARTMENT DBC 14 JUN 2000

532/98

inquiry opened on 3 May 2000

by Paul Taylor BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for the Environment, Transport and the Regions

Appeal : APP/M1900/C/99/1031418

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice
- The appeal is brought by Mr M S Batson against Hertfordshire County Council.
- The site is located at Springview Farm, Flaunden, Hertfordshire
- The Council's reference is AO/SK/BF 143
- The notice was issued on 27 August 1999
- The breach of planning control alleged in the notice is failure to comply with condition no. 1 of a planning permission (refs: W/830/55 and 3662) granted by the Rural District Council of Hemel Hempstead on 6 September 1955
- The condition in question is as follows: "1. The land shall at all times be dealt with in accordance with the provisions of the report dated 22nd April 1955 submitted with this application; and no part of the operations provided for therein, as modified by the local planning authority shall be omitted except with the prior consent in writing of the local planning authority".
- The development to which the permission relates is the use of land for the extraction of chalk
- The notice alleges that the condition has not been complied with in that chalk has been exported from the site in lorries of a capacity materially in excess of 6 tons
- The requirement of the notice is to stop using lorries of a capacity in excess of 7.5 tonnes for the export of materials from the site
- The period for compliance with the requirement is 1 day
- The appeal was made on the grounds set out in Section 174(2) (a) (c) (d) (f) and (g) of the 1990 Act as amended
- A Stop Notice requiring the cessation of use of lorries with a capacity greater than 7.5 tonnes for the export of material from the site was issued on 10 September 1999

Decision Summary: The appeal is dismissed

Procedural matters

1. The inquiry was held on 3, 4, and 5 May and 2 June 2000. The site inspection was held on 1 June 2000. At the inquiry all the evidence was given on oath. Counsel for Hertfordshire County Council also appeared on behalf of Buckinghamshire County Council. Flaunden Parish Council and Latimer Parish Council were represented by separate Counsel.

The enforcement notice plan

2. The boundary of the land concerned in this appeal is shown slightly incorrectly on the enforcement notice plan. I shall therefore correct the notice accordingly and I attach a correct plan to this decision.

The report dated 22nd April 1955

3. This report was submitted in 1955 with the application for permission to develop the appeal site for the extraction of chalk. It has six sections; (1) Site, (2) Objective, (3) Need, (4) Method of Working, (5) Distribution, and (6) Restoration. The first sentence of section 5 says "Material would be transported direct to farms by specialised spreader-lorries of six tons capacity". There has been discussion between the appellant and the Council on the meaning of the word "capacity". It is agreed that it means "payload" ie. the weight of material that a lorry can carry. When payload is added to the weight of the lorry itself the result is "gross vehicle weight" (gvw).

The appeal on ground (c)

The appellant's case on ground (c)

4. It is accepted that lorries greater than 6 tons capacity have exported chalk from the appeal quarry. That, however, is not a breach of condition 1 of the 1955 planning permission.

5. Condition 1 requires the land to be dealt with in accordance with the provisions of the 1955 report. The land in question is just the permission site and the operations referred to are the operations authorised on the permission site. Section 5 headed "Distribution" deals with off-site matters. Much of it is inherently vague, eg. it says "the majority of journeys would be made via Latimer and Chesham thus avoiding Flaunden village" - wording which is too imprecise to be capable of being construed as a planning condition. Condition 1 relates essentially to section 4 of the report dealing with the "Method of Working" of the site itself.

6. Off-site activities are not necessarily incapable of being governed by a planning condition. But in this case the contents of section 5, read as a whole, are inherently vague and the right approach is to treat the section as being of a predictive or informative nature rather than of a restrictive nature. A vague condition is ultra vires. The use of the expression "would be" in the first sentence of section 5 of the report is consistent with the chapter being construed as predictive rather than restrictive.

7. From the 1960s vehicles greater than 6 tons capacity have operated from the quarry. The evidence for this is compelling (as the appellant's ground (d) case demonstrates). Planning officers through the 1960s and 1970s were clearly aware of the operations taking place from the site, involving the use of lorries larger than 6 tons capacity. It is telling that at no time since 1955 has there ever been even a hint contained in any of the records that the site was restricted to 6 ton capacity lorries in its operation. It is not likely that the planning officers at the time would have been unaware of the contents of the 1955 report and for that reason it is significant that they never asserted that the restriction existed.

8. The 1955 report was no doubt taken into account by the local planning authority at that time but in the 1950s much less weight would have being given to the impact of lorries on the highway network. Other schemes of working submitted with planning applications, at that time, in relation to other sites, do not contain sections on "distribution". In those days it was normal to concentrate on control of the site itself.

9. Accordingly, no breach of planning control has occurred and the appeal on ground (c) should succeed.

The County Councils' case on ground (c)

10. The 1955 report formed part of the planning application and it was submitted to inform the local planning authority as to the method of development and working that would be carried out if permission were granted. The mechanism of submitting a working report with a minerals applications was a common practice and it still is. The only sensible approach to condition 1 is that the intention and explicit wording incorporates the whole of the report within the ambit of condition 1. It would be nonsensical to restrict the operations to those which only directly affect the site itself.

11. The 1955 report recognises that Flaunden Hill (the road between the quarry entrance and Flaunden village), is a particular problem. It refers to the obstacle to loaded lorries presented by the hill. The local planning authority would, without question, have considered the effect of lorries on local roads when granting permission. The inference of the appellant that the planning authority must have considered the matter and then decided that no restriction was necessary defies common sense and is plainly wrong.

12. In any event it is obvious that the movements of the lorries carrying chalk do affect the land directly in that the distribution of the material that is excavated relates to the land in terms of the material that is removed from the site to the surrounding farms.

13. The ambit and scope of condition 1 is clear. It incorporates the entirety of the whole report into the permission granted. The wording of condition 1 is adequate to incorporate, as a matter of law, the entire contents of the report within the scope of the permission. Some parts of the report are informative but others are restrictive and are intended to be. A commonsense approach to interpretation is therefore required.

14. Condition 1 is valid and enforceable. It seeks to prevent the use of lorries of more than 6 tons capacity. Lorries of greater size have been used and the condition has clearly been breached. The appeal on ground (c) should therefore be dismissed.

The Parish Councils' Case on ground (c)

15. Condition 1 provides that the land shall at all times be dealt with in accordance with the 1955 report. The report says that "material would be transported direct to farms by specialist spreader lorries of 6 tons capacity". These words mean that there is a limitation on the mode of working the site, namely that material is to be transported in lorries of the capacity stated.

16. It is hard see how any other interpretation could be suggested. The report is clearly intended to determine the way in which the site operates. Otherwise there would be no point in condition 1.

17. There are parts of the report which contain provisions which are not certain enough to be enforced. However where there are certain provisions, such as in this case, the condition must be applied.

My Conclusions on ground (c)

18. Condition 1 refers to "the report". It does not refer to individual sections of the report. This indicates to me that the whole report is relevant.

19. The condition says "The land shall at all times be dealt with..." To interpret this phrase as meaning that only what happens within the boundaries of the site is relevant is, in my view, too narrow an interpretation. Condition 1 was imposed "to ensure the proposed workings

are carried out in an orderly and satisfactory manner and in the interests of local amenities". The concern with "local amenities" indicates to me that the condition applies to the local area as well as the site itself.

20. Clearly, though, not every sentence in the report is a planning condition. Some of its content is descriptive, predictive or declaratory. Some of it is imprecise or vague. However, the first sentence of section 5 reads to me as a specific undertaking by the applicant that if planning permission were granted material would be transported by lorries of a specific type and size. The sentence is not vague or ambiguous. The report describes the problem for lorries posed by Flaunden Hill. It is, in my view, logical and reasonable to assume that part of the purpose of condition 1 is to limit the impact of lorries using that route by controlling their size.

21. The Council have not, prior to the issue of the current enforcement notice, sought to prohibit the use of the site by lorries in excess of 6 tons capacity. The appellant believes that this is because, previously, the Council did not consider that there was a 6 ton restriction in force. This is, in my view, however, only conjecture. There is no documentary or oral evidence that indicates that possible enforcement action was previously contemplated but abandoned due to the perceived lack of an effective planning condition. The matter seems to have not been examined before the current enforcement action. The Council may not have known that larger lorries were being used to any material degree. I return to this point later.

22. Whatever the Council previously thought and did, or did not do, about lorry traffic I consider that condition 1 of the 1955 permission, via the 1955 report, seeks to prohibit transport of chalk by vehicles other than specialised spreader-lorries of 6 tons capacity. Larger lorries have been used, as the appellant acknowledges. There has, therefore, been a breach of planning control and the appeal on ground (c) fails.

The appeal on ground (d)

The appellant's case on ground (d)

Legal provisions

23. From 1971 to 1995 the relevant regulations concerning immunity and mineral development were the Town and Country Planning (Minerals) Regulations 1971. Regulation 4 said that an enforcement notice in respect of non-compliance with any condition or limitation subject to which permission for mining operations was granted may be served under section 15 of the Act of 1968 at any time within 4 years after the non-compliance has come to the knowledge of the local planning authority. Thus if 4 years went by without enforcement action then that non-compliance became immune if the breach was known about by the local mineral planning authority. That immunity is preserved by the operation of section 4(2) of the Planning and Compensation Act 1991.

The evidence

24. The quarry has operated with vehicles that have reflected the commercial realities of the changing times. Evidence given orally at the inquiry from those involved with the quarry is compelling. It demonstrates that lorries well over 6 tons capacity have exported chalk from the land from 1976 until towards the end of 1991 when quarry operations ceased. They were resumed in 1999. Specific lorries have been identified (eg. a 3 axle 24 tonne gvw lime-spreader). The operations have been seasonal and have fluctuated with demand. The oral evidence on lorry size is supported by weighbridge records, photographs, and by written

statements from the landowner, quarry operators and lorry drivers. A 1983 manuscript site visit note written by a Council officer refers to 20,000 tonnes extracted in 1982. Realistically, it is not possible to have extracted that amount of material using only small 6 ton capacity lorries.

The knowledge of the local planning authority

25. There is no legal authority as to whether "the knowledge of the local planning authority" as referred to in Regulation 4, must be actual or constructive. Certainly, however, if the test is of constructive knowledge it is difficult to see how the quarry operated for so long without some knowledge by the County Council's officers of the size of the vehicles used to convey chalk. In this case there is evidence in documentary form that the mineral planning officer, Mr Crawford, had direct knowledge of the facts which are now said to constitute a breach of planning control. In May 1977 the District Council's officer, Mr Smith, recorded visiting the site and seeing the lorries involved. His notes indicate that he inspected the quarry with Mr Crawford on the 24 May 1977. Mr Crawford went into the quarry to carry out an inspection. On the balance of probability Mr Crawford must have had direct knowledge of all the relevant facts including the size of lorries being used.

26. Mr Crawford's knowledge is sufficient. In the context of the Regulations the Mineral Planning Authority does not refer to the County Council acting as a body of members. Where an officer acting within his ostensible authority monitoring a potential breach of planning control becomes aware of a particular state of affairs that is sufficient. If a mineral planning officer acting in the course of his duties becomes aware of facts comprising an alleged breach of control but chooses not to report that to committee immunity should not be lost. If it were that would lead to injustice and would not give true effect to the Regulations. It is significant that in Spillane v Customs and Excise Commissioners (1990) TC 212, relied upon by the Council, it was the knowledge of the Commissioners' officer that was relevant.

Continuity of breach of control

27. The contention that immunity can never arise in respect of lorry movements, in that it is alleged that each movement of a lorry is a separate breach of planning control, is unsound. Where a condition, such as an agricultural occupancy condition requires occupation only by persons employed in agriculture etc. there is clearly a presumption of continuous occupation and therefore the breach is required to be continuous (North Devon DC v SSE (1998)4PLR46). However if the occupation has been continuous, that is sufficient for immunity to be established and thereafter to subsist - each day of occupation in breach of the condition does not comprise a separate breach of planning control. The difference in the present case to the agricultural occupancy condition example is that the nature of the use permitted is inherently intermittent, as the Method of Working chapter of the 1955 report confirms. It is therefore sufficient for immunity to arise and subsist if the quarry was worked in breach of condition during the period of operation. The evidence clearly demonstrates that in the period up to 2 January 1992 (the date on which section 4(2) of the 1991 Act came into effect), during the operation of the quarry, the site was so operated otherwise than in accordance with the condition which it is alleged restricts the operation. The clear evidence is that this continued certainly to the end of 1991. Any gap to 2 January 1992 is immaterial given the nature of the permitted use.

28. The case of Nicholson v SSE (1998) JPL 553, referred to by the Council, was concerned with different facts - there the breach came to an end in 1991 at which time it had not

become immune from enforcement action. In the present case, the clock is stopped as at January 1992 by operation of section 4(2) of the 1991 Act. Precisely the same position would arise in the case of breach of an agricultural occupancy condition.

29. The principle in Nicholson that if a fresh breach occurs after an interruption then the clock can start again is accepted. However, that does not apply in cases where immunity is preserved by section 4(2) of the 1991 Act. Section 4(2) has a similar effect to the granting of a lawful development certificate.

Conclusion

30. In this case immunity from any enforcement proceedings in respect of the breach of condition 1, in respect of the size of lorries involved, had arisen by 1991.Vehicles of up to 32 tonnes gvw operated from the site for a period in excess of 4 years from the date when the breach first came to the knowledge of the local mineral planning authority. Use by 32 tonnes gvw lorries is therefore immune from enforcement action and the appeal on ground (d) should succeed .

The County Councils' case on ground (d)

Legal provisions

31. From 1971 to November 1995 the relevant regulations that related to immunity with regard to mineral development were the Town and Country Planning (Minerals) Regulations 1971. Regulation 4 states that the LPA can issue an enforcement notice at any time within 4 years after the non-compliance has come to the knowledge of the local planning authority. Section 4(2) of the Planning and Compensation Act 1991 allows immunity which has been accrued in the past to be preserved. Therefore on 2 January 1992, when that section came into effect, if immunity had been established in law it would be preserved. It is not necessary to consider the position post the repeal of these regulations as the appellant's allegation of immunity only relates to the pre-1995 period when the regulations were still in force.

The evidence

32. The evidence of previous use of larger lorries comes predominantly from the managing director of the haulage company whose lorry movements led to the issue of the enforcement notice, and his employees. The only corroborative evidence presented is that in the form of photographs and weighbridge records. The Council accept that on balance the appellant has provided evidence which shows that larger lorries have been on site. But that is all. The evidence relating to type, actual size, number of movements and when, is so vague as to be questionable and difficult to rely on to prove immunity. What is necessary is for the appellant to show that as a matter of fact the extent of movements has been so great as to grant immunity from the issuing of the notice.

33. The 1983-5 weighbridge records show that 10% of vehicles were under 7.5 tonnes payload. That is clear evidence that historically smaller vehicles were in operation at the site.

34. The record of the amount of chalk extracted in 1982 does not allow any deduction of the size of lorries being use to export the material.

35. There have clearly been larger lorries on the site but to conclude that such use, for the export of chalk as opposed for other aspects of haulage, has been consistent over time, is impossible in the light of the evidence presented.

The knowledge of the local planning authority

36. The Regulation 4 reference to the knowledge of the local mineral planning authority must be to the actual knowledge of the authority. The regulations should be interpreted literally. If the regulation was intended to incorporate constructive or presumed knowledge then it would have specified that. The VAT and Duties Tribunal deals with regulations concerning the knowledge of Excise Commissioners. In the case of Spillane v Customs and Excise Commissioners (1990) STC 212 it was held that "the reference to evidence coming to the Commissioners' knowledge, in my judgement, means what it says: the word does not encompass constructive knowledge".

37. Irrespective of the extent of lorry movement by vehicles in breach of condition 1 the whole of the ground (d) appeal relies on the assertion that the use of larger vehicles came to the knowledge of the mineral authority as a result of the recorded site visits carried out by Council officers in May 1977. There is however no evidence showing that the Council received knowledge that the size of lorries was in breach of the condition. What is critical is what was seen by Mr Crawford, the officer of the mineral planning authority.

38. All that the notes of the site visits indicate is that Mr Crawford visited the site in 1977, that there were numerous vehicles on site and that Mr Crawford concluded that none of the conditions of the permission were being breached to a degree requiring enforcement action. The site visit notes do not indicate whether Mr Crawford saw lorries laden with chalk leaving the site or whether anyone brought to his intention the use of larger lorries at other times for the export of chalk.

39. The whole appeal on this ground depends on what happened on just one day, 24 May 1977. Based on the feeble evidence presented to the inquiry the appellant cannot establish that the Council knew of the use of larger lorries. There is not one other piece of evidence either direct or by implication which shows that in the past 44 years, prior to 1999, the use of larger lorries had ever come to the attention of the mineral planning authority. The appeal on this ground cannot succeed in this evidential vacuum.

Continuity of breach of control

40. Each movement of lorry to and from the site in breach of condition 1 is a separate breach of planning control and as such cannot claim immunity. Each breach constitutes a fresh breach of the condition and therefore time runs anew from each separate breach (Nicholson). In effect the breaches that occurred (if they did occur) in the 1970s are not material to the breaches that occurred in 1999. The movements of last summer amounted to fresh breaches and, therefore, the time limit had not expired and the Council properly issued the enforcement notice.

Conclusion

41. Immunity from enforcement action has not been secured by means of the provisions of the 1971 regulations and section 4(2) of the 1991 Act. A breach of planning control occurred in 1999 and it is not immune from enforcement action. The appeal on ground (d) should therefore fail.

The Parish Councils' case on ground (d)

Legal provisions

42. The legislative provisions on which the appellant relies are as stated by the appellant and the Council.

The evidence

43. The evidence to support the appellant's case is scant. It has not been proved that vehicles which breached the limit were, for a continuous period of 4 years, carrying chalk away from the site. There was evidence of some visits of larger vehicles. However, much of that evidence was given by drivers who retain connections with the managing director of the current haulage firm concerned, and whose statements closely resemble each other. There is not sufficient evidence of a continuous pattern of carrying away material by vehicles larger than the condition would permit. Such objective records as there are, such as the weighbridge records, are at best sporadic.

The knowledge of the local planning authority

44. "Knowledge" in the context of the 1971 regulations means actual knowledge (as was held in the Spillane case). It has not been shown that the County Council had actual knowledge of any breach of planning control.

45. The notes of site visits made show that a District Council officer saw 2 lorries laden with lime leaving the site in 1977. However, it does not follow that the lorries were over 6 tons capacity. Moreover there is no evidence of what any officer of the County Council saw.

Continuity of breach of control

46. Even if there was a continuous breach of the condition for 4 years which did come to the knowledge of the County Council that does not allow the success of the enforcement appeal on ground (d).

47. After 1992 quarry operations ceased and they did not resume until 1999. When those operations began again in 1999 there was a fresh breach of planning control. The law is not that once there is a breach of condition then that breach if ceased and then recommenced will always be immune. The Nicholson case establishes that in order for there to be immunity a breach must be continuous up to the date of the enforcement. Once there is a hiatus of the kind that we have here then any immunity which has already been acquired is lost. It does not matter whether any previous breach of control was immune. The appellant's pre-1992 evidence is, in fact, of no help to him.

My conclusions on ground (d)

48. The appellant's witnesses, written statements and photographs together provide good consistent evidence, in my view, that between 1975 and 1991 some lorries with a capacity in excess of 6 tons exported chalk from the quarry. It would, I believe, be surprising if that were not the case. It is difficult to imagine that through the 1980s only relatively small 6 ton lorries were always used. I am therefore satisfied that condition 1 was not complied with on occasions prior to 1991.

49. I do not think, however, that the local mineral planning authority (the County Council) had knowledge, either actual or that can be constructed or presumed, of that non-compliance.

There is nothing documented, and no oral evidence, to indicate that the County Council had any specific information about the size of lorries being used. The few site visit notes relied on by the appellant do not refer to capacity or weight of lorries. In fact there is, in my view, nothing at all in them of direct relevance to this appeal apart, significantly, from the references to the fact that the County Council officer, Mr Crawford, 'considered that there was no infringement of any planning control' and told the appellant that in his opinion 'none of the conditions of the planning permission had been broken to a degree requiring enforcement'. These statements lead me to the view that the local planning authority almost certainly did not have any knowledge that there was any material departure from Condition 1 in respect of the size of lorries being used to export chalk.

50. I therefore conclude that the appellant cannot rely on the 1971 Regulations to claim immunity from enforcement action because he has not shown that, on the balance of probability, any non-compliance with Condition 1 had come to the knowledge of the local planning authority. Thus, by 1991 immunity against enforcement action had not been obtained.

51. Furthermore, it was held in Nicholson that each period of non-compliance with a condition represents a separate breach of planning control. If non-compliance ceases, because the offending activity is discontinued, that breach is at an end. Any future non-compliance will amount to a new breach, which will be liable to enforcement action for a further 10 years. The facts of the Nicholson case are different to those in this appeal, mainly because the chalk extraction operations are intermittent. Nonetheless the period of time during which the offending activity was discontinued was in this particular case very long (from 1991 to 1999). In my view when the use of 32 tonne gvw lorries to take chalk away began in 1999 that was the start of a fresh breach of planning control. The current enforcement action has been taken within the time limits now applicable. The appeal on ground (d) therefore fails.

The appeal on ground (a)

The basis for the appeal

52. The appellant accepts that a balance needs to be struck between continued chalk extraction and environmental impact and that the use of 32 tonne gvw lorries, as occurred in 1999, should not recommence. He has, therefore, put forward substitute conditions for my consideration. These are: -

    (a) Size of lorries to be limited to 24 tonnes gvw

    (b) Working hours from 0730 to 1800 Mondays to Fridays, and 0730 to 1300 Saturdays

    (c) No more than 18 movements each weekday (9 in, 9 out), or 12 (6 in, 6 out) on Saturday mornings

    (d) No export of materials on Sundays or bank holidays

    (e) Weighbridge records to be kept.

    (f) A sign advising drivers of routes, to be approved, to be erected at the quarry exit

53. In addition the appellant would accept a temporary permission pending the outcome of his current separate appeal on his Environment Act 1995 Review of Minerals Planning Permission application for determination of new conditions at Springview quarry.

54. I note that Circular 11/95 says that conditions are not an appropriate means of controlling the right of passage over public highways and that while it may be possible to encourage drivers to follow preferred routes by posting site notices the correct mechanism for doing so

is under the Road Traffic Regulation Act 1984. In my view the suggested erection of an approved-routes sign could well be ignored by drivers and cannot be relied upon to prevent the use of unsuitable roads.

The main issue

55. I consider that the main issue raised by this appeal concerns the impact that lorry traffic generated by the quarry, operating under the above conditions, would have on the amenity and safety of other road-users and local residents, and, if harmful, whether there are other material considerations that, nonetheless, indicate that the degree of harm would, in the particular circumstances involved, be acceptable.

Development plan policies

56. I have summarised the main development plan policies relevant to this appeal in an appendix to this decision. I have had regard to them, and to Government policy in MPGs and PPGs, in arriving at my conclusions.

Impact on amenity and safety of other road-users and local residents

57. Southview quarry is not directly served by primary or secondary distributor roads. Lorries going to and from the quarry have to use the local rural network of lanes before the A404 to the south or the A41 to the north are reached. This local network involves narrow lanes with, in places, poor vertical and horizontal alignment and limited forward visibility. At some points the lanes are too narrow for an HGV to pass a car and in some cases 2 cars cannot pass each other. The lanes go through villages including Flaunden, Latimer and Chenies. The lanes are used by motorists, walkers, cyclists and horse riders. The area is attractive and peaceful, part of it being within the Chilterns AONB. The rural lanes add to the attractiveness of the locality. Its predominant character is rural, residential and recreational with many well-signposted, well-used footpaths and bridleways.

58. Flaunden Hill rises eastwards from the quarry entrance. It is steep and narrow and has overhanging trees. At its end there are 2 sharp bends as it enters Flaunden village. The use of Flaunden Hill by 24 tonne lorries would, due to their large size, cause congestion and inconvenience for other road users. Lorry traffic going through Flaunden village would cause noise and disturbance for local residents both inside and outside their homes. The appellant appears to me to accept the unsuitability of the Flaunden Hill route for quarry traffic. At the inquiry he proposed the construction of a raised kerb at the quarry entrance to prevent traffic from using Flaunden Hill. The Council have, however, investigated this and concluded that they would not agree to its construction because of an objection by Buckinghamshire County Council. An alternative route from the quarry to the east and north is an extremely tortuous one involving Horse Hill, a very narrow winding lane with few good passing places where any 24 tonne lorry traffic would cause severe nuisance to other road users.

59. The appellant now maintains that, in practice, Flaunden Hill and Horse Hill would not be used by lorry drivers. I am not so sure. They are the only routes from the quarry to the north and east, apart from very indirect ones, and it seems unrealistic to me to assume that quarry traffic would never want to go in these directions.

60. Flaunden Bottom is the lane leading southwards from the quarry entrance. It is flat and straighter than Flaunden Hill. It is, however, a narrow road with barely adequate passing places. At its southern end there is a road sign saying that it is unsuitable for HGVs. Its use

by 24 tonne lorries would I have, no doubt, cause inconvenience for other road users. The lane is used by horse riders to get from one bridleway to another. The area appears to have become particularly popular for horse riding over the years, now having certain long distance routes identified by the British Horse Society. I see no reason to doubt the evidence that Flaunden Bottom, like other lanes in the area, is very well used by riders and that they and their horses find the close passage of large lorries very frightening.

61. Further south Flaunden Bottom leads to Latimer village and the River Chess. The lane here is well used by pedestrians, both local residents and ramblers using the sign-posted Chess Valley Walk. The lane is narrow in places and lacks footways. Pedestrians using the lane would, I have little doubt, find the passage of 24 tonne lorries most uncomfortable. Village residents with houses close to the road would suffer inconvenience, noise and disturbance.

62. Beyond the River Chess there are more problems. To get to the A404 lorry drivers would probably, in my view, use Stony Lane. This is, however, a steep, fairly narrow, winding hill. A road sign at the junction of Stony Lane with the A404 says that it is unsuitable for HGVs. I consider that 24 tonne lorries would be likely to struggle up the hill causing inconvenience and disturbance for other road users, sometimes including pedestrians and horse riders.

63. There is an alternative westbound route to the A404 via Chenies village. This too involves a steep hill used by horse riders. Within the village there is a stretch of road near a public house that is often reduced in width due to customers' parked cars. The passage of 24 tonne lorries through the village would be likely to cause inconvenience, noise and disturbance for other road users and local residents. A poor alternative eastbound route to the A404 is available via Bell Lane but it too is narrow, and hilly and it passes through a built-up area with houses and a school close to the road.

64. In short, there are no satisfactory routes at all to or from the quarry for use by 24 tonne lorries. I consider that such use would be very harmful to the amenity of other road users and local residents and that it could be detrimental to highway safety, especially that involving horse riders. I consider that the nuisance caused by the lorries would be substantial, notwithstanding the suggested restrictions on the number of trips made, and the hours and days of working. It seems highly likely to me that almost every single trip made by a 24 tonne lorry would cause a nuisance to someone. To allow such traffic would, in my view, be clearly contrary to the aims of policy 29 of the approved Hertfordshire Structure Plan Review and policies 8 and 49 of the adopted Dacorum Borough Local Plan. Up-to-date planning policy 18 of the adopted Minerals Local Plan says that permission will normally only be granted for the extraction of minerals which are capable of being transported from sites by primary and distributor roads. That is, in my view, a sound planning principle.

Other material considerations

The need for a comparative approach

65. The appellant maintains that the environmental impact of 24 tonne gvw lorry movements, restricted in number and prohibited outside normal working hours and on Saturday afternoons, Sundays and bank holidays, would be no worse, and probably better, then the impact of lorries that could be used if the enforcement notice were upheld. If the notice were upheld then lorries with a 7.5 tonne capacity could be used. It is agreed that this equates to a lorry of about 12 tonnes gvw. The appellant therefore argues that it is necessary to compare the impact of restricted 24 tonne gvw lorry movements with unrestricted 12

tonne gvw lorry movements or, more sensibly, with adapted 16 tonne gvw lorries since 12 tonne gvw lorries are not readily available as standard in the market. In fact, the appellant maintains that on that basis alone there is a compelling case for varying the condition to allow the closest practical vehicle size which enables 7.5 tonnes to be carried.

66. I do not agree, however, that the appeal should be approached and decided on the comparative basis suggested. The appellant's own evidence is that the absolute minimum gross vehicle weight of lorry to operate the quarry, with a restriction of 18 movements per day, is 24 tonnes. The managing director of the haulage company clearly explained at the inquiry the economics of the matter based on the relatively low price of chalk and the cost of transport. There was no evidence to the contrary. No-one knew of any quarry operating with lorries of 12 tonnes gvw. The only conclusion to be drawn from the evidence is that the operation of the quarry with less than 24 tonne lorries is not viable and is unlikely to become so in the forseeable future. It is therefore academic and pointless to consider the impact of 12 or 16 tonne lorries because there is no reasonable prospect of that situation occuring. In practice if a comparison is to be made it is, as the Councils argue, between 24 tonne lorries and none.

67. For the sake of academic completeness I have, nonetheless, assessed the matter but given the evidence on viability I consider that my following remarks are of little real interest or weight. A 24 tonne lorry would probably be about 1.25 to 2m longer than a 12 or 16 tonne lorry and it would have another axle. I consider, therefore, that due to its extra length it would be less manoeuvrable than the smaller lorry and that it would have a more robust and substantial appearance. In my view the heavier, longer vehicle, with it double wheels, would be significantly more intimidating to pedestrians, cyclists and horse riders. As the lorries would often have to squeeze by these other road users I consider that the differences would be material. I reach this conclusion bearing in mind the differences in hours and days that the lorries would operate (ie restricted or not by planning condition).

Closure of the quarry

68. The appellant maintains that the principle of the 1955 permission should not be impugned and that there should be no question of the quarry having to close. Based on the appellant's unequivocal evidence on viability I consider that if the enforcement notice is upheld the quarry would in all probability close down. That would, indeed, be a serious consequence given that the site does have planning permission and that it is a specified mineral site in the Hertfordshire Minerals Local Plan. I recognise too that MPG2 says that planning conditions should reflect a programme of working designed to accommodate the operator's needs while at the same time minimising the effect on the environment. The 1955 restriction on lorry size no longer reflects the operator's needs. I can, therefore, appreciate why the appellant feels that the upholding of the notice would be unfair and unreasonable.

69. The quarry did, however, operate for much of the 35 years from 1955 giving benefit to the appellant and others. I do not think that it is inherently unreasonable to reappraise the matter of lorry size, whatever the outcome, some 45 years after planning permission was originally granted. Nor do I consider that I am bound to agree to the appellants suggested conditions in order to keep the quarry open.

70. I do consider that the degree of harm caused by 24 tonne lorries, as now proposed, would be very great and that it could only be outweighed if there was clear evidence of significant counterbalancing benefit. The only evidence of such benefit relates to the need for chalk as lime for use in farming.

Need

71. There was reference at the inquiry to information about the advantages to farmers of liming. But this was very general advice and it does not show that there is an overriding need for Southview quarry to remain open.

72. More specific is a letter from Needham Chalks Ltd which says that the agricultural chalk from Southview quarry is desperately needed to supply farms within a 15/20 mile radius. It goes on to say that that company is unable to supply farmers due to the shortage of chalk and that other local quarries have limited supplies of half-inch material. The letter is some evidence of need but it only amounts to the written remarks of one person. No one appeared at the inquiry to give evidence or to be questionned about need. For most of the 1990s the quarry did not operate. There was no evidence to show that local farming suffered as a consequence. There are other sources of lime. I consider that the evidence on need is not sufficient for me to come to the view that all the harm that I have described is outweighed.

Sterilisation of the resource

73. I accept the appellant's view that a decision to uphold the notice would, in practice, mean that the chalk resource at Springview farm is not used, at least for the forseeable future. I do not agree, however, that it would lead to conflict with policy 3 of the adopted Hertfordshire Minerals Local Plan. That policy seeks to ensure that the appropriate weight is accorded to the prior extraction of minerals which would otherwise be sterilised by other development, which is not the situation here. Planning policies seeking to protect the environment do mean that from time to time mineral resources cannot be worked. PPG7 indicates that mineral resources can only be worked where they occur and are accessible. I consider that the chalk at Springview quarry is not accessible, without unacceptable consequences, except by 12 tonne gvw lorries.

Comparison with 1955

74. The appellant says that modern 24 tonne gvw vehicles would have no greater adverse impact than the 6 ton capacity vehicles that were allowed by the 1955 permission. They are cleaner, quieter, and have better suspension and damage the roads less. He therefore considers that what is now proposed would be no worse than what was originally permitted. The decision now should be to allow what is functionally and environmentally equivalent to what was allowed in 1955.

75. In my view, however, there is no merit in comparing the 1955 situation with today given the great increase that there has been in traffic over the years. Lorries using the local road network now will have much more opportunity to cause nuisance to other road users than they would have done 45 years ago when traffic levels were much less.

Comparison with the 1980s

76. The appellant refers to the fact that records show that material was removed during the 1980s in 10-17 tonne loads. It is, he says, telling that one local resident who lived in Latimer at that time indicated that lorries caused little nuisance or danger during that period. The appellant maintains that what is now proposed is not dissimilar to the pattern of activity during the 1980s which was then acceptable. Local residents have got used to the period of inactivity during the 1990s and are reacting to the fresh action in 1999 when 32 tonne lorries making more than 18 trips per day occurred.

77. I consider, however, that there is insufficient information about the type and frequency of lorry movements undertaken during the 1980s for me to be able to compare that with what is now proposed. It seems to me, however, that one reason why the local resident could not recall much nuisance or danger during that period may well have been because the number of trips was materially less.

Increased trip lengths

78. The appellant says that without Springview quarry chalk being available the local need for agricultural lime can only be met by 32 tonne lorries from other quarries travelling further, an unsustainable consequence. It would be better he argues to have the 24 tonne vehicles travelling shorter distances.

79. I consider that without extensive evidence on traffic patterns and the locations of demand it is not possible to come to a clear view on whether or not the upholding of the notice would lead to significantly increased trip lengths on the network as a whole. It is, however, reasonable to conclude, in my view, that the extra journeys from other quarries to supply local needs would be dispersed on the road network. Their impact would not be as concentrated as it would be in the lanes close to Springview quarry if the suggested conditions were endorsed.

Visibility at the quarry entrance

80. There is no dispute that the standard of visibility left and right from the quarry entrance is deficient. The appellant says that this is not materially affected by the length of a lorry using the junction. It seems to me, however, that the more a substandard junction is used by heavier, longer lorries the more likelihood there is of an accident occuring. A shorter, lighter, quicker vehicle can clear a sub-standard junction faster than a longer, heavier one.

My conclusion on ground (a)

81. I conclude that the appellant's proposal would cause significant harm to the amenity of road users and local residents and that it could increase the risk of accidents occuring. It would be in conflict with the development plan. There are no material considerations that lead me to the view that the harm and policy conflict are outweighed. I have had regard to all other matters raised in writing and at the inquiry but none lead me to alter my conclusion and the appeal on ground (a) fails.

The appeal on ground (f)

82. The appellant indicated at the inquiry, in opening, that ground (f) is effectively subsumed within ground (a) since if ground (a) was rejected ground (f) appeal would also fall away.

83. However, in closing my attention was drawn to the fact that the Council's highways witness had accepted that a 16 tonne gvw lorry would not have a materially different impact to a 12 tonne gvw vehicle. So, on that evidence, the requirements of the notice should, it was argued, be varied to allow 16 tonne vehicles because that lesser requirement would overcome the injury to amenity.

84. I again find this argument to be academic given that the appellant's case is that the absolute minimum size to operate the quarry is with 24 tonne vehicles. Nonetheless I have considered it.

85. The Council's evidence on the point was in fact variable. It was the judgement of the Council's Rights of Way officer that any use of Flaunden Bottom by lorries with a capacity greater than 7.5 tonnes would seriously affect its use by walkers, cyclists and horse riders.

86. Clearly, the closer the comparison being made the harder it is to identify differences. Nonetheless a line has to be drawn somewhere. I consider that use of the quarry by 12 tonne gvw lorries would, given their size, still result in some loss of amenity for road users and local residents. There is a clear need, in my view, given the nature of the local highway network, to keep the harm to amenity to the absolute minimum. That means keeping the restriction at or very close to that established in 1955 when permission was originally granted. The use of 16 tonne lorries unrestricted to hours and days of operation, would neither remedy the breach of control nor remedy any injury to amenity. The appeal on ground (f) therefore fails.

The appeal on ground (g)

87. There are, according to the undisputed estimate of the appellant, about 11,000 tonnes of chalk stockpiled at the quarry. To avoid sterilisation, and having regard to the seasonal nature of the requirement for chalk, the appellant maintains that the period for compliance should be extended to 1 year.

88. In my view it is not acceptable to allow heavy lorry traffic to resume, albeit intermittently, for up to 1 year. There would be no control over size of vehicles used or hours or days of operation and the removal of 11,000 tonnes of chalk could involve over 1000 trips if 32 tonne gvw lorries, with 20 tonne payloads, were used (500 in, 500 out), more with 24 tonne gvw vehicles. That would, in my view, represent a significant and prolonged loss of amenity for road users and local residents.

89. The requirements of the notice do not prevent the removal of the stockpile by 12 tonne lorries if that becomes necessary.

90. The 1 day period for compliance seeks to prevent any operation of the quarry using vehicles significantly larger than those permitted by the 1955 permission. That is consistent with my above conclusions and is not unreasonable. The appeal on ground (g) therefore fails.

FORMAL DECISION

91. For the above reasons and in exercise of the powers transferred to me I hereby correct the enforcement notice by replacing the word 'red' by the word 'black' in its paragraph 2 and by replacing its plan by the notice attached to this decision. Subject thereto I hereby dismiss this appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Right of appeal

92. Particulars of the right of appeal against my decision to the High Court are enclosed.

Paul Taylor

Paul Taylor

APPENDIX:

SUMMARY of the MOST RELEVANT DEVELOPMENT PLAN POLICIES

The Hertfordshire Structure Plan Review (approved 1998)

Policy 1 deals with sustainable development and identifies general aims. A balance is to be struck between encouraging economic growth consistent with environmental constraints respecting quality of life and making the most efficient use of land and minerals.

Policy 29 indicates that development will be located so that traffic is discouraged from using roads, in particular local distributor and access roads, to which it is not appropriate. In particular, development which would generate a significant changes in the amount of traffic using rural roads will be resisted where (i) there is an increased risk of accidents, especially to pedestrians, cyclists and other road users such as horse riders; (ii) where the road is poor in terms of width, alignment or structural condition; or (iii) where increased traffic would have an adverse effect on the rural character of the road or the residential properties along it.

Policy 49 says that the establishment or strategic footpaths, bridleways and leisure cycling routes and links to the wider network of movement are supported, subject to other policies of the plan. Development proposals will be required to take full account of such routes, and incorporate appropriate measures for their protection and enhancement.

Policy 52 deals with the safeguarding of mineral resources. The policy seeks to discourage development which would unnecessarily sterilise land containing economically workable mineral deposits.

Policy 53 permits the extraction of chalk subject to other policies of the plan. Particular regard will be had to policies relating to environmental effects.

The Hertfordshire Minerals Local Plan (adopted 1998)

Policy 2 defines Flaunden quarry as a specific site for mineral working.

Policy 3 states that mineral extraction will be encouraged prior to the other development taking place where the mineral would otherwise be sterilised or where despoiled land would be improved following restoration. Mineral extraction will not be permitted in other areas where it would prejudice the timely working of preferred areas.

Policy 6 indicates that in considering planning applications for mineral working account will be taken of the environmental capacity of the locality. The type, size and number of vehicles generated are some of the criteria to be assessed.

Policy 14 indicates that the developer should take all reasonable steps to minimise the impact of operations on the existing rights of way network. Applicants are required to illustrate how rights of way will be safeguarded. Interference with public recreation on or adjacent to any site proposed for mineral working will also be taken into account when considering applications.

Policy 18 says that planning permission will normally only be granted for the extraction of minerals which are capable of being transported from sites by primary and distributor roads. The suitability of available access roads to serve areas of reserves will also be taken into account. Where the transport of material would require the use of local roads applicants will normally be required to submit a heavy goods vehicle impact assessment. Planning permission will normally be granted if that assessment demonstrates that the adverse impact can be satisfactorily ameliorated.

The Dacorum Borough Local Plan (adopted 1995)

This plan shows the site as being in the Green Belt and in a Landscape Conservation Area. Immediately to the west of the site is the Chilterns Area of Outstanding Natural Beauty.

Policy 3 states that mineral extraction in the Green Belt is generally acceptable.

Policy 8 indicates that development will not be permitted unless (d) it avoids harm to the surrounding neighbourhood and adjoining properties through, for example, visual intrusion, loss of privacy, noise, disturbance or pollution; (b) it provides a satisfactory means of access that will not cause or increase danger to pedestrians and road users; (f) the traffic generated can be accommodated on surrounding roads without serious detriment to amenity, safety or traffic flow.

Policy 49 relates to the assessment of all development in highway and traffic terms. Factors to be considered include the width of the highway, the amount of existing on-street parking, and road traffic accident records. In villages and countryside areas special regard will be paid to the effect of traffic on the safety and environmental character of country lanes.

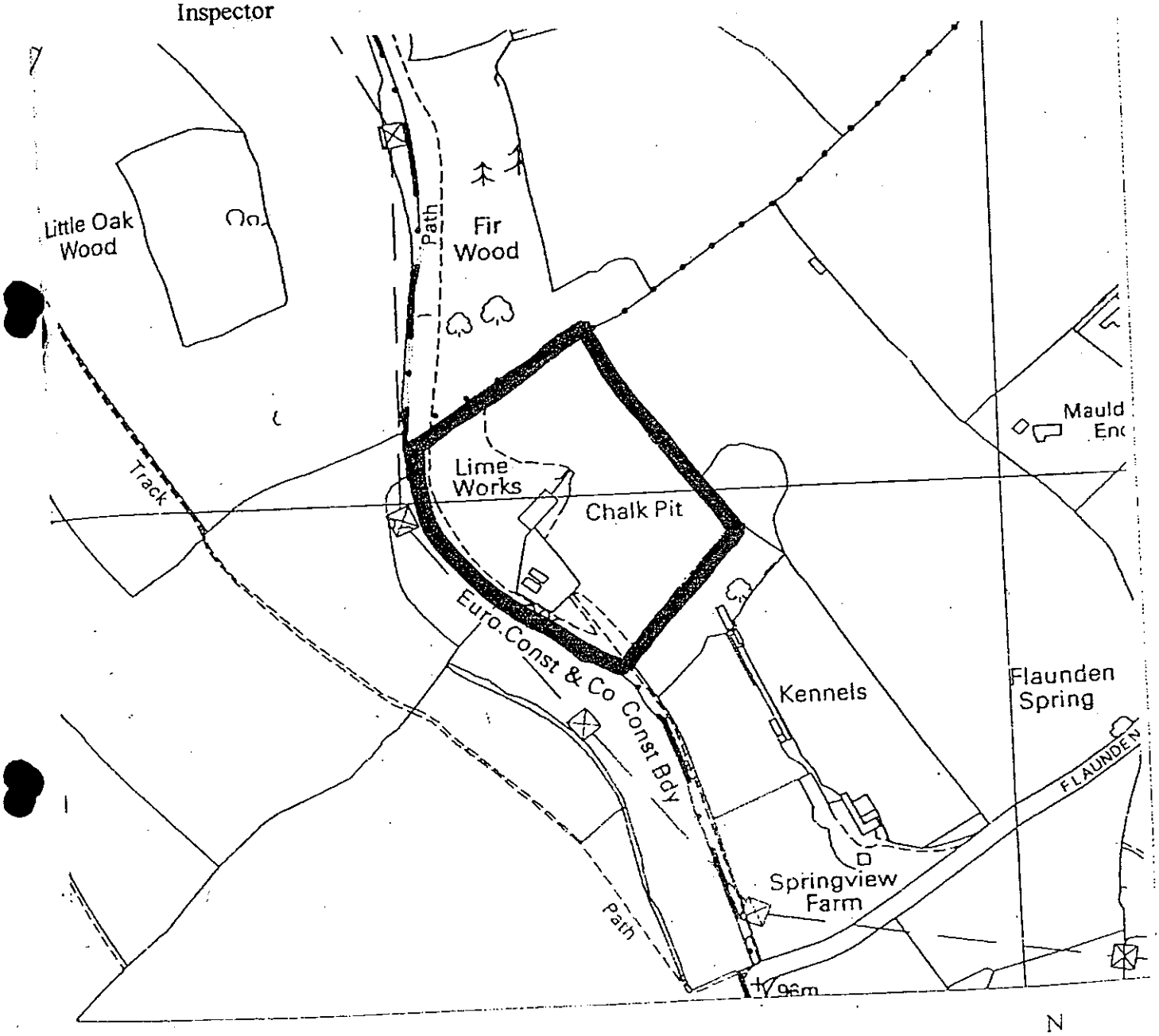
THIS IS THE CORRECTED ENFORCEMENT NOTICE PLAN

ATTACHED TO MY DECISION : APP/M1900/C/99/1031418

14 JUN 2000

Paul Taylor

Inspector



Springview Quarry, Flaunden.

1:5000

Herfordshire County Council Environment

roduced using ArcView by
ertfordshire County Council
Environment Department

100 0 100 200 Meters

COPYRIGHT ACKNOWLEDGEMENT

Thur, 9 Sept., 1999

3

APPEARANCES

FOR THE APPELLANT:

Mr A Tait, of Counsel — Instructed by Faulkners

He called

1.	Mr M Batson	The appellant, Springview Farm
2.	Mr C Crosby	Former quarry manager
3.	Mr D Knapp	Lorry Driver
4.	Mr M Dunn	Lorry Driver
5.	Mr P Atkins	Lorry Driver
6.	Mr K Horwood	Lorry Driver
7.	Mr S Sayce	Lorry Driver
8.	Mr G Batson	Springview Farm
9.	Mr J Ruck	Lorry Driver
10.	Mr R Nickell	Managing Director, C J Wren Joywheel Ltd
11.	Mr C Wren	Director/Owner C J Wren & Sons
12.	Mr J Brooks BSc(Hons) CEng MICE MIHT	Divisional Director, WS Atkins Transport Consultants
13.	Mr P Faulkner FRICS FAAV	Faulkeners Chartered Surveyors

FOR THE LOCAL PLANNING AUTHORITY and BUCKINGHAMSHIRE COUNTY COUNCIL:

Mr S White, of Counsel — Instructed by Hertfordshire CC & Buckingham CC

He called

1.	Mr K Robinson BSc DipTE CEng MICE MIHT AMIA	Traffic Impact Consultancy
2.	Mr B Owen HND DipMS DipEAA	Hertfordshire CC
3.	Mrs R Shaw BSc DipCM	Hertfordshire CC

FOR FLAUNDEN AND LATIMER PARISH COUNCILS:

Mr T Corner, of Counsel — Instructed by Mr D King, Home Farm, Latimer

He called

1.	Mr D King FRICS	Home Farm, Latimer
2.	Mrs S Andrews	Chairman, Flaunden PC
3.	Mr R Leach	Broadlands, Flaunden
4.	Mrs C van Reen	Moonshine Farmhouse, Flaunden
5.	Mr G Gullan	27a The Square, Latimer
6.	Mr K Platt	Gables End Cottage, Latimer
7.	Mrs J Page	The Chess Valley Bridleways Association

INTERESTED PERSONS

1.	Mrs J Anderson	County Councillor, Herts CC
2.	Mr J Coombe	The Chiltern Society

DOCUMENTS

Document	1	List of persons present at the inquiry
Document	2	Letter giving notification of the inquiry
Document	3	Appendices to Mr Faulkner's evidence
Document	4	Appendices to Mr Brook's evidence
Document	5	Statutory Declarations & Witness Statements
Document	6	Appendices to Mr Robinson's evidence
Document	7	Appendices to Mr Owen's evidence
Document	8	Appendices to Mrs Shaw's evidence
Document	9	The Town and Country Planning (Minerals) Regulations 1971
Document	10	Licence Agreement
Document	11	High Court Order, Batson v Clark
Document	12	Note on volume of chalk extracted
Document	13	Letter from Needham Chalks (Sales) Ltd
Document	14	Note on recorded payloads
Document	15	Extract from TD42/95
Document	16	Table comparing vehicle characteristics
Document	17	Extract from the Planning and Compensation Act 1991
Document	18	Letter from Bardon Enterprises (Mr Philbey)
Document	19	Quarry schemes of working
Document	20	Case Law
Document	21	Letters from interested persons
Document	22	Relevant Development plans
Document	23	Core Documents
Document	24	Planning Application - Codicote
Document	25	Safety Audit
Document	26	TRRL report and notes
Document	27	TRRL Leaflet
Document	28	Letter from Bucks CC
Document	29	Tracks of vehicles at Latimer Crossroads
Document	30	Correspondence with Mr Crosby
Document	31	Suggested conditions
Document	32	Documents submitted by the parish councils

PLANS

Plan	A	The enforcement notice plan
Plan	B	The corrected enforcement notice plan
Plan	C	Proposed access arrangement –subsequently withdrawn
Plan	D	Plans of the local road network

PHOTOGRAPHS

Photo	1	Joywheel lorries
Photo	2	Other lorries

ENVIRONMENT

Hertfordshire COUNTY COUNCIL

Hertfordshire County Council
Notice under Schedule 13 of the Environment Act 1995

DECISION NOTICE

HCC Application No: 4/0532-98 (009) Other Ref No:

Description & location of development:

Determination of new planning conditions
at
Springview Quarry, Flaunden

To: Mr M S Batson
Springview Farm
Flaunden
Hemel Hempstead
Herts

Hertfordshire County Council has determined conditions different to* those submitted by you in your application dated 17 March 1998 (with further information required received on 5 March 1999) including the supporting statement which accompanied the application. The determined conditions that are imposed are numbered one to twenty-one on the attached sheet.

Dated: 3rd day of June 1999 Signed: Susan Davidson

HEAD OF COUNTY DEVELOPMENT UNIT

* The conditions determined differ from those set out in the application (see attached accompanying notice).

ENVIRONMENT

Hertfordshire
COUNTY COUNCIL

Hertfordshire County Council
Notice Under Paragraph 10 of Schedule 13 to the Environment Act 1995

(to accompany notice of determination of conditions where the Mineral Planning Authority determine conditions different from those submitted by the applicant, and the effect of the new conditions, other than restoration and aftercare conditions, is to further restrict working rights)

I give notice that:

Hertfordshire County Council in the accompanying notice of determination of your application dated 17 March 1998 (with further information required received on 5 March 1999) (planning application ref no: 4/0532-98 (009)) for the approval of conditions in respect of the site at **Springview Quarry, Flaunden** have determined conditions which differ in some respect from the proposed conditions set out in your application.

The effect of condition **EIGHT,** as compared with the effect of the condition, other than any restoration or aftercare conditions, to which the relevant planning permission(s) were subject immediately prior to the making of the accompanying determination, is to restrict working rights in respect of the site.

The working rights so restricted are:

The rate at which any particular mineral may be extracted (Hours of Operation).

In the opinion of the Authority, the effect of the restriction identified above would be such as to not prejudice to an unreasonable degree either the economic viability of operating the site or the asset value of the site. In reaching that opinion, the Authority have had regard to the guidance issued by the Secretary of State in MPG 14.

Dated: 3rd day of June 1999 Signed: Susan David

HEAD OF COUNTY DEVELOPMENT UNIT

SCHEDULE OF CONDITIONS NUMBERED 1-21 TO BE ATTACHED TO THE DETERMINATION OF NEW PLANNING CONDITIONS UNDER SCHEDULE 13 OF THE ENVIRONMENT ACT 1995, AT SPRINGVIEW QUARRY, FLAUNDEN, HERTFORDSHIRE. APPLICATION NUMBER: 4/0532-98 (009)

WORKING PROGRAMME, RESTORATION AND AFTERCARE

1. **Unless otherwise agreed in writing by the Mineral Planning Authority in advance, all mineral working shall cease on or before 31 January 2004.**

   Reason: To enable the Mineral Planning Authority to adequately control the development and minimise its impact on the amenities of the local area.

2. **Unless otherwise agreed in writing by the Mineral Planning Authority in advance, all restoration (excluding aftercare), including any deposition of mineral waste shall by completed by 31 January 2006.**

   Reason: To enable the Mineral Planning Authority to adequately control the development and minimise its impact on the amenities of the local area.

3. **Prior to the 5th January 2000 a detailed and comprehensive scheme of working shall be submitted for the written approval of the Mineral Planning Authority. The scheme shall specify amongst other matters:**

   (a) the method, direction, sequence, expected timing, duration and area of working and machinery to be used;

   (b) the location, height and proposed management of existing soil and sub-soil stockpiles;

   (c) measures for dealing with and disposing of surface water on the site during operations and following restoration, including the possible construction of surface ditches, outfalls and soakways;

   (d) any necessary measures to ensure the stability of the chalk cliff faces;

   (e) measures to ensure that any working will not be carried out within 20 metres of any badger set.

   The approved scheme of working shall be carried out in full unless the prior written agreement of the Mineral Planning Authority for any omission or variation has been obtained.

   Reason: To ensure an orderly programme of operations and restoration is carried out to a condition capable of beneficial afteruse and to ensure that the habitats of protected species are maintained

As agreed by

S Davidson 3.6.99

4. **Prior to the 5th January 2000 a detailed and comprehensive restoration and aftercare scheme shall be submitted for the written approval of the Mineral Planning Authority. The aftercare provisions of the scheme shall be for a five year period on completion of restoration. The scheme shall include details of:**

   (a) final restoration levels, methods as to how they will be achieved and time scales for achievement of final restoration;

   (b) aftercare management measures, identifying the intended after use of the site and how it will be accomplished;

   (c) measures to conserve existing colonies of Chiltern Gentian *(Gentianella germanica).*

   Unless otherwise agreed in writing, in advance, by the Mineral Planning Authority, the approved scheme of working shall be carried out in full.

   Reason: To ensure an orderly programme of restoration is carried out to a condition capable of beneficial afteruse and in the interest of amenity and to ensure that the habitats of protected species are maintained.

5. **No waste infill material shall be brought onto the site, save as may be required in connection with any scheme approved under Condition 4. In any event, only mineral waste and clean excavated soils shall be used for the final restoration of the site.**

   Reason: In the interests of the local environment and ensure that restoration is carried out to a satisfactory standard.

6. **No topsoils, subsoils or overburden whether imported or indigenous shall be removed from the site.**

   Reason: To ensure that all soils and restoration materials are retained for use on site to achieve the best possible standards of restoration.

7. **Topsoil and subsoil shall only be handled when they are dry and friable and only between the period April to September unless it is demonstrated to the Mineral Planning Authority in advance that operations can take place outside that period without damage to the soils.**

   Reason: To ensure that soils and other restoration material are handled and stored in such a way as to achieve the best possible standard of restoration.

As agreed by

SJDavidson 3.6.99

8. **Except in emergencies for the purpose of maintaining safe quarry working (which shall be notified to the Mineral Planning Authority as soon as practical) or unless the Mineral Planning Authority has agreed otherwise in writing:**

(a) no operations, other than water pumping, servicing of vehicles, plant and machinery, environmental monitoring, maintenance and testing of plant shall be carried out at the site except between the following times:-

0800-1800 Monday to Friday: and
0900-1300 Saturdays

(b) no operations shall take place on Sundays or Bank or other Public holidays.

Reason: To protect the amenities of the local residents and to safeguard the local environment.

9. **On the expiry of this planning permission or within three months of completion of mineral working, whichever is the sooner, all plant, structures, buildings, machinery, hardstanding and foundations used solely for the purposes of the winning and working of and minerals or used in the adaptation thereof shall be removed from the site so as to allow for the restoration of the site. Any other plant, structures, buildings, machinery, hardstanding and foundations shall be removed from the site within three months of completion of restoration, save as may be required for the approved aftercare or afteruse of the site (to be specified in the scheme to be approved under Condition 4).**

Reason: To enable the Mineral Planning Authority to adequately control the development and in the interest of the amenity of the local environment.

10. **No floodlights shall be used at Springview Quarry without the prior written agreement of the Mineral Planning Authority on the design, luminescence and layout of each light.**

Reason: in the interest of the amenity of the local area.

11. **Fencing shall be installed and maintained around the perimeter of the site sufficient to prevent unauthorised entry and to protect against accidental access onto the site.**

Reason: To ensure the safety of members of the public.

NOISE AND DUST SUPPRESSION

12. **Prior to the 5th January 2000 details of definitions of temporary or other specified operations which are permitted to exceed the normal day to day noise levels, as set out in Condition 13, shall be submitted for the approval of the Mineral Planning Authority.**

As agreed by

S Davidson 3.6.99

Reason: To minimise the adverse impact of noise generated by operations on the local community.

13. **Unless otherwise agreed in writing in advance with the Mineral Planning Authority, noise levels arising from any operations at the site shall not exceed 55dB Laeq, 1h (free field) as measured as measured at the nearest noise sensitive properties, and 70dB Laeq, 1h (free field) during temporary operations. Temporary operations provided for in Condition 12 should be limited to a total of 8 weeks in any 12 month period.**

Reason: To minimise the adverse impact of noise generated by operations on the local community.

14. **Prior to 5th January 2000 a scheme and programme of measures for the suppression of dust shall be submitted to the Mineral Planning Authority for written approval and thereafter operations shall be carried out in accordance with the approved scheme and programme of measures, unless otherwise agreed in writing in advance with the Mineral Planning Authority.**

Reason: To enable the Mineral Planning Authority to adequately control operations and avoid nuisance to the local community.

HIGHWAYS SAFETY AND AMENITY

15. **All reasonable steps shall be taken to minimise noise from vehicles, plant and machinery. Efficient silencers to the manufacturers specifications shall be fitted to all vehicles, plant and machinery used on the site.**

Reason: To minimise the impact on the amenities of the local residents.

16. **Best practical means shall be employed to ensure that the surface of the public highways shall be kept clean and free of mud and other debris at all times until completion of site restoration and aftercare. Methods to achieve this may include the use of a suitable wheel washer or wheel spinner.**

Reason: In the interest of highway safety and safeguarding the local environment.

17. **All loaded vehicles shall be sheeted.**

Reason: In the interest of highway safety.

18. **All vehicles accessing the site shall be less than seven point five (7.5) tonnes gross vehicle weight.**

Reason: In the interest of highway safety and to minimise the impact on the amenities of the local area.

As agreed by

S Davidson 3.6.99

19. **There shall be no more than 18 lorry movements (9 in, 9 out) at the site per day.**

Reason: In the interest of highway safety and to minimise the impact on the amenities of the local area.

WATER PROTECTION AND POLLUTION

20. **Prior to 5th January 2000 a scheme for the protection of the quality and quantity of groundwater resources shall be submitted to the Mineral Planning Authority for written approval.**

The scheme shall be carried out in full as approved, unless otherwise agreed in writing in advance with the Mineral Planning Authority.

Reason: To minimise the risk of pollution of watercourses and aquifers.

21. **Any oil, fuel, lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any water course or aquifer. For any liquid other than water, this shall include storage in tanks and containers suitable and fit for their purpose, which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipework. The floor and walls of the bunded areas shall be impervious to both water and oil. The pipes should vent downwards into the bund. There must be no drain through the bund floor or walls.**

Reason: To minimise the risk of pollution of watercourses and aquifers.

As agreed by

SJDavidson 3.6.99