

HERTFORDSHIRE COUNTY COUNCIL

and

BROXBOURNE BOROUGH COUNCIL

APPEALS

by

C G EDWARD (GOFFS OAK) LIMITED

against

ENFORCEMENT NOTICES

and a

REFUSAL OF PLANNING PERMISSION

Inspector: T G Lawrence BA

Date of Inquiry: 1 July 1980

File Nos: APP/5059/C/80/441
APP/5251/C/80/469
APP/5251/A/80/01164

Tollgate House
Houlton Street
BRISTOL

14 July 1980

To the Right Honourable Michael Heseltine MP
Secretary of State for the Environment

Sir

I have the honour to report that on 1 July 1980 I held an inquiry at the Council Offices, Hoddesdon into appeals by C G Edward (Goffs Oak) Limited under Section 88 and Section 36 of the Town and Country Planning Act 1971, against 2 enforcement notices, one served by the Hertfordshire County Council and the other by the Broxbourne Borough Council and against a refusal of planning permission by the Broxbourne Borough Council. The sites are at Church Lane Gravel Pit, Wormley, Hertfordshire.

1. Notice A

- a. The date of the notice is 4 January 1980.
- b. The breaches of planning control alleged in the notice are failure to comply with conditions subject to which planning permissions were granted.
- c. The permissions were granted on 30 June 1949 by the former Hoddesdon Urban District Council for the extraction of sand and gravel and, on 2 January 1968, by the Minister of Housing and Local Government for the continuation of use of part of the land for the preparation of soil for horticulture.
- d. The conditions of the permission of 30 June 1949 alleged not to have been complied with are:-
 - i. that excavation of sand and gravel be completed within the period of 30 years from the date of the first planning application;
 - ii. that the excavation be completely refilled to the level of the surrounding ground, covered with a surface layer of soil not less than 12 ins deep capable of supporting plant life and the initial cultivation of the site to the satisfaction of the local planning authority, such restoration to be completed within a period of 30 years from the date of the first planning permission;
 - iii. that on completion of the filling the footpath coloured brown on a plan attached to the notice (Plan C) be restored and reinstated.

The condition of the permission of 2 January 1968 was that the use then permitted be terminated on or before 30 June 1979.

- e. The requirements of the notice are:-
 - i. to cease the excavation of sand and gravel from the land within 28 days;
 - ii. to cease to use the land for the purpose of the preparation of the soil for horticulture within 28 days;

iii. to restore the land in the manner required by the planning permission of 30 June 1949 within 2 years;

iv. to restore and reinstate the footpath within 2 years.

f. The appeal against the notice was made on grounds 88(1)(a) and (g).

2. Notice B

a. The date of the notice is 21 January 1980.

b. The breach of planning control alleged in the notice is the making of a material change of use to use for the purpose of storing/keeping building materials, skips and scrap iron including motor vehicle bodies on the land.

c. The requirements of the notice are to discontinue the use of the land for the purpose of storing/keeping thereon building materials, skips and scrap iron including motor vehicle bodies.

d. The period for compliance with the notice is 3 calendar months.

e. The appeal against the notice was made on grounds 88(1)(a) and (b).

3. The development for which planning permission was refused is continuation of use for the purpose of the preparation of the soil for horticulture together with landscaping of the site.

4. This report includes a description of the appeals site and surroundings, the gist of the representations made at the inquiry, my findings of fact, conclusions and recommendations. Lists of appearances, documents and plans are attached.

5. The evidence was taken on oath.

THE SITE AND SURROUNDINGS

6. The appeal site has an area of about $11\frac{1}{4}$ acres and fronts the east side of Church Lane, Wormley, about a mile west of the lane's junction with High Road (A1170) Wormley and 600 yds west of the bridge over the Hoddesdon bypass (A10) (Plan E).

7. On its Church Lane frontage the site is well screened by trees and a thick, high hedge from the road and from 3 small dwellings fronting the road opposite the southern end of the frontage apart from a single short gap which has been filled with panel fencing. Another, larger gap at the site's north-west corner, opposite the junction of Spring Walk with Church Lane, has been similarly filled. A less substantial hedge along the north boundary forms an adequate screen when in leaf from the footpath, FP49, and a large meadow. Judging by the ground FP49, and FP45 which joins it at the north-east corner of the site, are seldom used. On the site's east and south-east sides there are belts of mature trees which completely screen it.

8. A children's home at Wormley Hill House is set back in its grounds from Church Lane's west frontage and further to the south-east there is scattered residential development along Church Lane. Apart from these developments the site's surroundings are rural in character, fairly well wooded and with the farmland mostly in use for grazing horses or cows. Beyond the bridge over the bypass Church Lane crosses New River by a hump-back bridge with very restricted forward visibility in both directions. A school and the parish hall are between this bridge and the lane's junction with High Road.

9. Within the site about $\frac{2}{3}$ of its total area has been filled to about the height of surrounding land leaving a central pit area at a much lower level. This area roughly corresponds with that shown on Plan B as "soil processing area" but is slightly more extensive. The filled area is far from level and has not been graded, landscaped or top-soiled. In parts of this area there are many heaps of turf and earth and a few heaps of peat and horse manure: these are the ingredients of the appellants' soil processing work. There is no sign of FP44 crossing the site diagonally (Plan C).

10. Besides the heaps of the soil processing ingredients there were a few small heaps of kerb stones, concrete pieces and blocks and granite sets in widely separated parts of the site. There were no skips on the site at the time of my inspection but I saw 2 old part-demolished tractors, the remains of a lorry, a van body used for storage, parts of 2 or 3 old agricultural machines and various pieces of disused gravel winning and screening plant. There is a large electrically operated screening plant on the "pit" floor, fed from the level of the recovered part of the pit, used to mix and screen the soil but I did not hear this machine in operation. An old corrugated iron roofed open-sided building is used to store processed soils and there is a large open concrete-surfaced area also used for soil storage and processing.

11. The whole site has been excavated for minerals but the only parts still being worked for gravel are in the parts shown as "Area 1" and "Area 2" on Plan E. A drag-line excavator has been working in Area 2 right up to the site boundary to a depth of about 20 ft and in Area 1 the worked area appears to be beneath a surface which has already been back-filled. Both worked areas are considerably smaller than the areas hatched on Plan E.

12. Church Lane's carriageway is about 18 ft wide at the access to the site, which is situated close to its south-west corner. There is a very narrow verge on the site frontage, with the hedge nearly overhanging the carriageway and opposite, at the south end only, on the frontages of the 3 small dwellings, there is a 4 ft wide footway. West End Road joins Church Lane from the west about 200 ft north of the site's entrance which is on a slight bend. The access road to the site is about 12 ft wide with a splay about 36 ft wide at the junction. From the junction visibility from 7 ft back from the edge of the lane's carriageway is restricted to about 100 ft to the north and 150 ft to the south. The access is gated and, with trees on both sides, looking up it from Church Lane little can be seen of the site's interior. Forward visibility on Church Lane travelling north or south from the site is poor, and on Spring Walk to the north it is even more restricted. There is no local speed restriction on Church Lane near the appeal site.

THE CASE FOR THE APPELLANTS

13. Addressing me, Mr Hyde outlined his clients' cases. The building materials, skips and scrap iron referred to in Notice B would be shown to be on the site for purposes incidental to uses which were authorised until the 2 planning permissions expired, they did not involve a material change of use and could not be regarded as being there for a separate storage use. Moreover inspection would show that the scale involved was so small that their presence on the site was immaterial in relation to the major issues.

14. The allegation in Notice A was not disputed. His clients' considered however that, as there were still scattered pockets of gravel in the pit, gravel extraction should be permitted to continue at its present level, which was too low to cause any reasonable offence, until, in probably 2 or 3 years time, the deposits were exhausted. There was no point in leaving gravel in a working pit. The filling and

restoration of the pit should also be allowed to continue at the present rate until, completed except for the central area, on the pit base, where soil processing would then be concentrated, as shown on Plan B, with a soil storage area retained on the upper level. This would involve the diversion of FP44 and steps were now being taken to arrange for a diversion order. His clients' main objective was to obtain planning permission to continue soil processing on this site, either as sought in the Section 36 appeal or, if their appeals failed, on part of the restored site as shown on Plan F which illustrated a proposal for the work to be continued at ground level behind a landscaped embankment which had not yet been submitted to the local planning authority.

15. In the 1968 appeal decision letter (Document 4) the Minister had held that the preparation of soil compost was not an agricultural use of land but it was far from being a typical industrial use. It involved the use of a large area, required for the natural processing of weathering, maturing and composting soils over a period of about 9 months, and for this reason it would be uneconomic to use an expensive industrial site and equally uneconomic to attempt to mature the ingredient soils in one place and mix and process them elsewhere. There was ample evidence that the company provided a genuine service to the public which was appreciated by all sorts of public and private bodies (Documents 13(1)-(25)) and which could not be replaced by any other local source of supply. If the appeals were not upheld and use of the site for soil composting had to stop there was little likelihood of a suitable alternative site being found. Even if it was not theoretically an agricultural activity soil composting was comparable to such a land use and, hidden from view and generating only infrequent lorry traffic, it caused little if any loss to local amenities. The objectors to the developments were clearly basing their objections mainly on a short period of intensive gravel working on the site by a lessee. Like many other persons fortunate enough to dwell in protected green belt countryside they were articulate and zealous in seeking to prevent other uses, however justifiable on economic and environmental grounds.

16. On ground (g) of the appeal against Notice A his clients were ready if necessary to cease gravel excavation within the period given for compliance but they and their customers would suffer considerable hardship if required to cease the preparation of soil for horticulture in 28 days. The restoration of the pit and reinstatement of the footpath could be completed in the 2 years given but this would involve a high degree of disturbance and traffic generation and it would be preferable to lengthen the period to 3 years so as to moderate this temporary impact on the local environment. In a period of building recession it might be difficult to obtain sufficient non-putrescible filling in accordance with licence given under the Control of Pollution Act (Document 12).

17. Mr Colin Edward, called by Mr Hyde and sworn said that he was the sole director of the appellant company and had been in business as a horticultural supplier since 1946. His company had operated from premises at Goffs Oak for 25 years and also owned the appeal site, which it acquired in 1964. In 1964 the site had the benefit of a planning permission for the extraction of gravel and sand granted in 1949 for a 30 year period and in 1968, following an inquiry, he was given planning permission to use part of the site also for the preparation of soil until the sand and gravel extraction permission expired in 1979 (Document 4). The company had continued to extract sand and gravel for their own business purposes but they realised that the deposits are almost worked out now and, although they would like to continue extraction for another 2 or 3 years if possible, were prepared if necessary to accept that this should cease. They considered however that the period given for the restoration of the site was too short and would like this to be increased to 3 years, so as to mitigate the impact of traffic on the site's surroundings. They wished to retain the screening equipment and continue with soil processing during the

restoration and landscaping on the lines of the plan which was submitted with their planning application (Plan B). If soil processing on the pit floor was allowed to continue the rest of the site could be fully restored in 18 months. When they took over the site in 1964 the footpath had already disappeared but he had recently applied for a diversion which would run along the west and north-west boundary of the site to join FP49 at the north-west corner. The footpath had not been used since 1964.

18. As regards the allegation in Notice B building materials had only been brought to the site as parts of loads brought there for tipping and occasionally materials which would be useful for their business had been picked out and set aside for future use on the site roads or for sale. Skips had occasionally been left on the site by tipping contractors after being emptied until several could be removed together by a single lorry, they had been used only in connection with the restoration of the site and not with the soil processing use. The only scrap on the site was pieces of old equipment, such as parts of lorries, loading shovels etc which were kept there as spares for the working equipment. All were parts of equipment used for the authorised uses of the site, none of the machines and iron had been brought in that state to the site.

19. There is a strong local demand for specialist soils for horticulture and the company's customers include several local authorities. Many customers have written expressing their support of the application to continue the soil processing use of the site (Document 13(1)-(25)). The letters indicate not only satisfactory service but difficulties in finding an alternative local supply, the nearest suppliers he knows are at Ongar and Kettering. The processes require 20,000 cu yds minimum storage, occupying 5 or 6 acres, as the soil needs to be matured for about 8 months in rectangular stacks 4 ft 6 ins high. Because of the large area needed it is uneconomic to consider an industrial site; the other 2 businesses he had referred to are carried out on farmland. To store and process on separate sites would add the costs of double haulage and handling to the ultimate costs to the customers and be uneconomic. At present the soil stacks are higher than they should be and he is using about 5 acres of the site.

20. Continuation of soil processing would not lead to an increase in the traffic using Church Lane but the restoration of the site, requiring an estimated 150,000 cu yds of fill over a 3 years period would involve about 20 lorries a day each carrying 10 cu yds. Once the tipping ceased soil processing would involve only about 6-10 lorry loads entering and leaving daily. During restoration a mobile screening plant would be used. The size of the business is limited by the capacity of the screening plant, which takes one hour to fill one lorry, and by the cost of transport, which limits the radius of supply at a competitive price. Recently the company has concentrated on supplying more specialised types of soil and this has involved processing smaller quantities. Although local residents have stressed the road hazards there have been no accidents involving lorries using the appeal site since he took it over in 1964. He is quite ready to take any action considered necessary to improve sight lines but he has never been asked to do so or to take any other action in accordance with Condition 3 of the 1949 planning permission (Document 3).

21. The objections on grounds of dirt and noise arise, in his opinion, from the tipping operations, particularly in wet weather. The soil preparation processes are much cleaner operations, lorries are loaded on hardstanding and the lorry approach to the site would be gravelled. If after restoration soil processing is permitted to continue it would have little effect on the neighbourhood, as now sited it is screened from view and the pit sides reduce the noise level. Some years ago there was a fly problem as the Edmonton Borough Council had a contract with the previous owner to tip burnt refuse on the site but since the agreement

expired about 12 years ago there has been no fly problem. A close watch is kept on the number of rats on the site and the local authority rodent control officer is called in if necessary; this has not been necessary recently. As only non-putrescible refuse such as builders rubble is tipped there is no health hazard. Many of the complaints appear to originate from a period between 1974 and 1978 when the north-west corner of the site was let to a contractor for sand and gravel extraction and tipping.

22. Mr Edward understands that some members of the district council support his application to continue soil processing but would prefer that the site should first be restored to its previous levels. For this reason an application will be made for use of the levelled site for the scheme shown on Plan F if the appeal against the Section 36 refusal fails. As soil processing is closely allied to horticulture it is an appropriate use for the green belt.

23. At the time of the 1967 inquiry a small quantity of John Innes sterilised soil was prepared, about 400 cu yds a year, in addition to ordinary soil processing in much greater bulk. 400 cu yds could be taken from the site in 40 lorry loads which is only about the average weekly traffic generated by the soil processing use as a whole.

24. Cross-examined by Mr Lewis. Mr Edward said that although if necessary he is ready to cease excavating sand and gravel as required by the notice he would prefer to keep on at his present very low level of extraction for a short period. Traffic problems are not the only ones which would inhibit speedy completion of the restoration, there is also the problem of obtaining suitable builders rubble etc of a non-putrescible nature at a time of recession in the building and road-making trades. If materials are available earthworks and engineering operations to restore the site would present no difficulties. It is correct that payment is made for the right to tip and provided the building trade improves it should be possible to restore the site in 2 years. The figure he gave of 150,000 cu yds of fill needed was a rough estimate he had calculated and he could not argue that the figure of 52,000 m³ (68,120 cu yds) which the council calculate is needed is wrong, although he thought it too low.

25. The stones and concrete which have been set aside on the site are mostly for use for making hardcore tracks there but some large kerb stones are used occasionally for garden steps if these are needed. There are only about 6 on the site. His firm do supply stone for crazy pavements but do not store it on the appeal site. The vehicle bodies and plant on the site are kept there as they still have parts of value for repairs to vehicles and plant used there. There has never been any sales or dealing in scrap iron from the site which, he agrees, is in quite unsuitable a place for such use. There have never been more than 2 or 3 skips on the site at any one time and they are usually only there for 2 or 3 days at a time, they are left there only as a matter of convenience by the tipping contractors and used solely in connection with site restoration.

26. The "soil for horticulture" referred to in the planning application which is the subject of the Section 36 appeal includes all sorts of mixtures of soil, sand, manure and peat and would include John Innes compost if the necessary sterilisation process was started again. The loam brought into the site requires 8 or 9 months to mature. He is unable to understand why the Inspector's report at the 1967 inquiry refers only to John Innes compost, it was not then claimed that only this mixture was processed on the site and he could only think that the Inspector had misunderstood the evidence. He could not remember if he had been advised to seek only temporary permission for the use of the site for soil processing in 1968, if he had then it must have been because the sand and gravel processes were also only temporary.

The amounts of soil processed at the site vary a great deal from year to year and seasonally but 20,000 cu yds a year is a rough estimate of the average. Since 1967 business has increased but output is limited by the capacity of the screening plant which, in perfect conditions, can only screen 80 to 100 cu yds daily. In 1967 although total soil processing was less it was certainly more than half the present output of about 20,000 cu yds. He is ready to accept that restoration of the site must proceed but wishes to continue to extract the gravel which remains.

27. Re-examined by Mr Hyde, Mr Edward said that in 1967 he was producing both John Innes mixture and ordinary soil mixtures. The screening plant was operating then. He could not understand how the Inspector had been given to understand that only 400 cu yds of compost was produced in a year, at that time it was more likely that this was the weekly output, about 40 lorry loads. The output of processed soil since 1967 has only increased slightly. No other enforcement notices were served on him in connection with his uses of the site until 1979. The granite sets supplied from the site were not brought there for that purpose but were recovered from the spoil brought in for filling. Output of processed soil at present is down this year but last year it was higher than usual, the demand varies considerably, 400 cu yds per week would be a fair average of output over a long period, this would involve about 40 lorry movements with the lorries bringing in unprocessed materials and taking out processed soil.

28. Questioned by me, Mr Edward said that 8 to 10 lorry loads of sand and gravel were extracted per week from the pit now. There were odd pockets of deposits still left, extraction now was in the region shown as "Area 2" on Plan E. It was used as hoggin for garden paths and domestic purposes and making up unmetalled roads and as sand for the basis of turf-laying. These uses were generally carried out directly by his firm although some sand and gravel might be sold direct to customers. His estimate of 3 years supply at the present rate of extraction was only a guess, it might be that only 6 months supply was left. The soil for compost-making as well as all the other materials, except a small amount of sand amounting to 1/7th of the usual mix, was all brought to the site. When processed it was all sold, he did not use it for horticulture himself. It has not been possible or practicable to use FP44 since before his firm purchased the site in 1964. The nature of the fill used in reclaiming the site is governed by his licence under the Control of Pollution Act (Document 12). It now consists of builders spoil and other hard fill only. By his estimate about $\frac{1}{3}$ to $\frac{1}{2}$ of the site remained to be filled and although the availability of fill depends to a large extent on the state of the building trade it ought to be possible to complete the restoration in the 2 years given in the notice although this would involve a heavy traffic load on Church Lane. Only one old open-ended building on the floor of the pit is used for storing processed soil, the building was previously used in connection with the gravel extraction use. There is also another old Nissen-type hut used to store tyres etc for the vehicles and equipment used for both soil processing and gravel extraction. The 1968 decision referred to part of the pit floor part of the present appeal site.

29. Mr John K Frapwell called by Mr Hyde and sworn said he had acted for the appellant company for a number of years in his capacity as a surveyor. He had submitted a planning application on the company's behalf in 1975 for use of the site as a garden centre and car park but this was refused. In mid-1979 he submitted the application which is the subject of the Section 36 appeal and an application to the county council to continue the use of the site for sand and gravel extraction. Both applications were refused. He has now proposed an alternative scheme for using the site after it has been re-filled and landscaped for a continuation of the soil processing business (Plan F). Mr Frapwell then described the proposed scheme.

30. Mr Frapwell pointed out that the appellants have been carrying out soil processing for many years and neither wish to nor are able to increase the scale of their operations. There is a steady demand for processed soils but they had no space available at their Goffs Oak premises. He had been asked to find them an alternative site several years ago but had been unable to find anywhere suitable. He considered that to site the use on an industrial estate would be a waste of such land, which was in short supply locally, as well as totally uneconomic. In his opinion the present site was suitable for either continuing to use the secluded base of the pit as at present or using the reclaimed area behind an enclosing embankment. The traffic generated by the soil processing use is not more than that involved in an intensively used agricultural holding where heavy lorries deliver foodstuffs regularly.

31. The "landscaping" included in the 1979 planning application referred to an intention to landscape the restored perimeter area of the pit while continuing to use the central floor area for soil processing. He had hoped to work out an acceptable scheme with the county landscaping offices. Both the present use of the floor of the site and the proposed use of the surface of a completely recovered site had advantages and he could not say which would be the better. He had been present at the 1967 inquiry and as far as he remembered it was the steam-sterilising process of the John Innes compost production which caused concern. To the best of his recollection it was made clear that other soil composts were also processed on the site. Since 1968 he had visited the site on 7 or 8 occasions and had never seen much difference in the scale of activities there. He was surprised at the figure given of processed soil production in the 1967 Inspector's report, it could only refer to one particular kind of compost, not to total annual production.

32. Cross-examined by Mr Lewis, Mr Frapwell said that although one of the notices which were the subject of the 1967 appeals referred just to the "preparation of soil for horticulture" the Inspector appeared to confine his report only to John Innes compost production. He was mystified by this and could not explain it. He had never asked the local planning authority to help him find an alternative site for his clients. He would be ready to recommend to his clients accepting temporary planning permission for the suggested Plan F scheme if necessary; this would enable the planning authority to retain control over the use of the land. This scheme depended on the complete recovery of the whole appeal site and he did not think that the reasons given for the refusal of the 1979 application applied equally to the new proposals as all activities would take place behind a landscaped embankment.

33. Re-examined by Mr Hyde, Mr Frapwell said that in his view it was the tipping which had upset local people and once that had been completed the unobtrusive use of the site for soil processing would prove unobjectionable. This could at least be tried by granting a temporary permission for such uses when tipping finished.

THE CASE FOR THE COUNCIL

34. Mr John Unthank called by Mr Lewis and sworn said he had worked in the Minerals Section of the County Planning Department for 2½ years. He first described the site and its surroundings, which are within the Metropolitan Green Belt, pointing out that the tree belts beyond the east and south boundaries are protected by the Broxbourne Woods Tree Preservation Order No 2 of 1955. Sand and gravel deposits have neared exhaustion in the pit in recent years and the appellants have recently extracted only hoggin from Areas 1 and 2 shown on Plan E. The paramount use of the site has been for the storage and processing of soil. In the surrounding countryside other land, shown as Areas A, B and C on Plan E, has been the subject of applications for mineral workings and Document 6 gives the site histories.

35. When the 1948 application was made to extract sand and gravel from the site the appellants claimed that the pit had already been working for 15 years (see Application Plan, Plan G). Conditional planning permission was given in June 1949 (Document 3). The present Notice A is founded on Conditions 5, 6 and 8 of the 1949 permission. In 1964 after acquiring the site the appellant company began to use the site both for excavating minerals and for processing soil and in 1968 on appeal planning permission was given for the use to continue until 30 June 1979 when the 1949 planning permission also expired (Document 4). In 1971 and 1975 applications to use the site as a garden centre were refused. In 1977 the County Planning Officer wrote to the appellant reminding him of the need to restore the site by mid-1979 (Document 8). In May 1979 an application to continue the use of the site was submitted and the committee reports and resolutions and letters from the public are given in Document 9. In June 1979 the Broxbourne Borough Council received the application which is the subject of the Section 36 appeal. Both these applications were refused.

36. One of the appellants' grounds of appeal against Notice A was that excavations of sand and gravel has not been completed. No evidence had been produced at any time to support the claim that workable deposits still remain. At a meeting in August 1979 the appellants' agent, Mr Frapwell, claimed that "Area A" on Plan E contained some 7,500 tonnes of material but he never confirmed this in writing and the County Minerals Officer pointed out to him that this deposit in fact provided the lateral support to the adjoining field, which is outside the appellants' control. The council consider that the minerals in this pit have now been virtually exhausted.

37. On policy grounds an extended period for extracting sand and gravel is unacceptable. Policy 24(i) of the approved Structure Plan (Document 10) requires that the need for the material and the mineral content of the site must be proven and Policy 24(ii) that the proposal should be acceptable in terms of its effect on the character and appearance of the area and the amenities of residents there. Neither of these requirements has been fulfilled. The committee dealing with the appellants' 1979 application to continue the use of the site for mineral extraction considered that if the excavation and restoration had not been achieved in 30 years there was no case for prolonging the permission, adequate time had already been given. The borough council considered that the proposal was unacceptable because of the detrimental effect on the environment of the area and the degree of nuisance and disturbance it would cause to local residents. Furthermore they considered there was too little residual material to justify renewal of planning permission. The County Surveyor objected to the proposed renewal because of the adverse effect heavy lorries would have on local roads.

38. Structure Plan Policy 24(iii) emphasises the need for acceptable proposals for the restoration and after-use of mineral workings but, judging by past performances, it is considered unlikely that, even if further sand and gravel existed, an extension of the planning permission would expedite the restoration of the site. Policy 24(iv) requires a phased work programme dependent on restoration and, although in a relatively small pit such as the appeal site this might have presented difficulties, when the appellants purchased the site in 1964 it was substantially worked and they should have nearly completed restoration by June 1979 rather than deferred this obligation and then suggested that there is insufficient time for restoration without undue traffic generation and difficulties of spoil supply.

39. Policy 24(v), requiring the safeguarding of amenities, is largely covered by the Control of Pollution Act licence but although the site is well screened in summer from Church Lane it is less well screened on other boundaries, including the east side, adjacent to Area 2 on Plan E, owing to loss of tree screening. Although in Policy 27 it is suggested that in exceptional circumstances a dry pit could accommodate other uses after mineral extraction these circumstances must be very exceptional and apply only when the use cannot be located elsewhere.

40. Restoration of the pit is still far from complete although the appellants must have been aware of this requirement of the 1949 planning permission when they purchased the site in 1964, and were reminded of it at the 1967 inquiry and again in the 1977 correspondence (Documents 4 and 8). Parts of the site have been refilled and levelled to the original contours but they have not yet been topsoiled and, instead, they are used to store the soil required for the soil processing business. The central pit area used for soil processing has not been restored at all. As the site is close to London and to radial routes such as the A10 and A1, it is well sited to attract contractors wishing to get rid of rubble and there is an uncanny ability among skip drivers to find free or cheaper pits; there should therefore be no difficulty in obtaining enough spoil to fill the site. The area shown as Site A on Plan E was granted planning permission for mineral extraction in 1955 and was refilled and restored to pasture by 1970. It is estimated that 52,000 m³ of fill is needed to fill the site or, say, 416 tonnes of builders spoil a day which is equivalent to 21 lorry loads, or 2 per hour over a period of about one year. Topsoiling should be simple for a firm such as the appellants, with its known suppliers and expertise, and provided there is adequate supervision of tipping there should be no difficulties in refilling the tip in a systematic way so as to avoid engineering problems.

41. The site is in the Metropolitan Green Belt and in an Area of Great Landscape Value where there is a presumption against developments other than those needed for agriculture, forestry etc. In certain circumstances even in agricultural priority areas it is necessary to work land for minerals to sustain the local or national economy, and this is recognised by Policy 18 of the Structure Plan, but this exception is purely a temporary land use and there is a presumption that a pit should be exploited at a reasonable rate and restored as quickly as possible. The 1968 appeal decision (Document 4) was in relation to a small scale of soil screening activity which could be conveniently situated within a working pit. Since then the emphasis has apparently changed at the site from mineral working to the soil production activities. In a more recent appeal concerning the Cock Lane gravel pit (Plan E and Document 11) the Secretary of State refused to permit very similar activities to those taking place on the appeal site on the grounds that they were not suitable in the site's rural setting within a green belt and an area of great landscape value. Unless mineral workings are seen by local residents to be quickly restored when their temporary exploitation for minerals has been completed the confidence of the public in assurances of the temporary need for such workings will be forfeited. By September 1980 the site will have been a temporary mineral working for 47 years and there is no good case for delaying its full restoration, particularly since its use for minerals has for the last 12 years been an increasingly subordinate activity to its use for soil processing.

42. Cross-examined by Mr Hyde, Mr Unthank said that the Cock Lane use depended on the import of materials from outside. If it had occurred elsewhere than in a mineral working the development would have been an industrial one to be determined by the borough, not the county council. The use of the appeal site by the appellants is also an industrial activity and if it was to continue it should be on a site suitable for industrial uses. In his experience applications for mineral excavations almost invariably raised objections from people living nearby. He is unable to say when FP44 became impassable but would not dispute the claim that this occurred before 1964. He did not know why the local authority did nothing about it. He considered that the worked-out parts of the pit should be refilled and topsoiled progressively, not left unfilled or part-filled or uncompleted. If the support of the adjacent boundary was withdrawn by working Area 2 too close to the boundary it would be a common law wrong rather than a breach of planning control. When this had happened previously by the Church Lane boundary it may have been on the part of the site let to another user by the appellants in 1974. In his opinion seen from within the site boundaries or from a gap in the hedge on the north boundary the site was

now an eyesore. When the County Surveyor objected to the proposed extension of the use of the pit he may have thought it involved additional lorry use. The appellants have completely failed to fulfil the restoration requirements of the original planning permission in Condition 6 (Document 3) even allowing for the fact that the 1968 appeal decision may have prejudiced the complete restoration by 30 June 1979. Nevertheless, while soil processing was proceeding some parts of the site could have been completely restored. Any tree gaps on the east boundary were due to Dutch Elm disease, not to the appellants' actions. He knew of 2 dry mineral pits which had been used for other purposes, one for a treatment plant for dry industrial waste and one as a depot for railway aggregates, the former would not have been a suitable use for a normal industrial site. If the restoration of the site was properly organised and supervised local residents would be unlikely to object to a limited and finite period of increased road activity. He understood that the owner of Falcon Hall had inquired about purchasing the site and that he wanted to dispose of pre-cast concrete structures. The estimates given of filling requirements were based on his outline calculations. He reckoned that one m³ of builders spoil equalled about 1.5 tonnes. He relied on council records for his statement that since 1964 gravel excavation had been small except during the period when a contractor worked part of the site, and that the intensity of soil processing had increased since 1968.

43. Re-examined by Mr Lewis, Mr Unthank said that some of the objectors to the extension of the planning permission came from further afield than the site's immediate environment. As a landscape gardener Mr Edward would know how to restore the site to potential agricultural use.

44. Questioned by me, Mr Unthank said that the only alternative site he could think of which would be suitable for the appellants' use for soil processing was on an industrial estate. There was such an estate in Hoddesdon but he doubted whether a sufficient area could be available to meet the appellants' needs.

45. Mr David Collins called by Mr Lewis and sworn said that, dealing first with Notice B, at a council officer's inspection there had been heaps of granite sets and blocks on the site about 100 m from the entrance, elsewhere some piles of old kerb stones, an abandoned lorry, a vehicle body and disused plant. He considered the vehicles and plant to be unlikely to be of much use for spare parts. At the time of a recent inspection there were 2 areas with empty skips, one with 4 and one with 3. It was not considered that the activities of keeping these materials etc on the site, although relatively small in amounts, were ancillary to the previously permitted uses of the site. They were likely to generate additional lorry movements and increase its derelict nature. This was inappropriate in an area in the green belt and of great landscape value which could be seen from FP44, if it had been in fact passable, and from some viewpoints to the north from outside the site.

46. He was the Broxbourne Borough Council Senior Development Control Officer. The borough council had served Notice B and had refused the appellants' application to continue use of the site for soil preparation for horticulture. Document 14 gives the background and purpose of the Metropolitan Green Belt within Hertfordshire and the policies contained in the Structure Plan which, with the approved First Review constitutes the approved Development Plan. Mr Collins then described the existing and proposed modes of use of the site for soil processing explaining that 2 men were employed full time at the site and additional persons on a casual basis. He then referred to the site's planning history and to the terms of the 1968 appeal decision. He said that the appellants had indicated that they were ready to give up any existing rights relating to gravel extraction in return for permission to continue the soil processing on the site but all gravel winning rights had already expired.

47. Despite the appellants' claims to the contrary there have been important changes since the 1968 appeal decision was given. Then there was a current permission for sand and gravel extraction and the site was being used as a refuse pit (paragraph 23(iii) of the Inspector's report - Document 4). More importantly according to the Inspector's report soil preparation amounted to only 400 cu yds a year. Now permission to use the site for gravel extraction has expired, sand and gravel deposits are nearly if not completely worked out, use as a refuse tip has ended and the predominant activity on the site has become soil preparation with about 10,000 cu yds prepared each year. This is not an appropriate use in an area of great landscape value and the access roads are unsuitable for the heavy traffic it generates. Although the end product of the process is of a horticultural nature the preparation of that product is an industrial process requiring plant and machinery similar to that usually found on an industrial site and involving noise and traffic generation to degrees unacceptable in the green belt. The noise as heard in Church Lane is not excessive but is obtrusive in a rural setting. This was the tenor of the Inspector's conclusions on similar activities at the Cock Lane site and the conclusions were accepted by the Secretary of State (Document 11). Permanent consent for the use of the site for soil preparation would prevent the restoration of the land to agricultural use in accordance with the principle on which the temporary permission for mineral extraction was originally given and permit an industrial use in a completely unsuitable situation. There are limited small industrial sites in the borough available at present but a survey is proceeding and it may be that a large enough site for the appellants' business has been identified within the last few days although its availability and suitability are uncertain.

48. Cross-examined by Mr Hyde, Mr Collins said that the explanation given by Mr Edward at the inquiry about the skips having been left by tipping contractors in the course of tipping operations might be correct. It was possible that the old mechanical shovels and abandoned lorry might have been used on the site in connection with the authorised uses but he found it hard to believe that they could now be required for spare parts. There was a very small amount of scrap there and no evidence of the site being used as a scrap yard. He could not point to anything which might not have been required for the previous authorised uses of the site. He accepted that the kerb stones, sets etc might have been picked out from the builders' spoil brought to the site but they should not be stored there. Compared with the main issues of the appeals Notice B was a side issue.

49. The only evidence the council had that the present scale of use of soil processing is greater than that in 1967 is the Inspector's report that then only 400 cu yds of compost was produced. He agreed that the processes required a substantial area, estimated to be about 5 acres by the appellants, but considered nevertheless that it should be sited on an industrial site. Within a 5 mile radius he knew of one area over 5 acres zoned industrial but there was a general shortage of industrial land in the borough. He did not agree that the appellants' use was fundamentally agricultural.

50. Re-examined by Mr Lewis, Mr Collins said that the Minister had specifically ruled out the classification of the use as an agricultural one in his 1968 decision (Document 4). The soil storage areas shown on the appellants' plans submitted with his 1979 application (Plan B) and in the proposal for use of the site after restoration (Plan F) both showed soil storage areas much smaller than 5 acres. At present soil was stored in random piles over about $\frac{2}{3}$ of the site.

51. Mr Peter Batts called by Mr Lewis and sworn said that he was the borough's Principal Engineering Officer. Church Lane is classified as a non-principal road grade 2, that is to say a minor road. Proposals likely to generate traffic of many commercial vehicles would materially shorten the life of the road structure and financial restraints had reduced the level of maintenance on this category of road.

52. The entrance to the site is situated on a bend near a road junction and gives totally inadequate visibility for vehicles emerging from or entering the site. At the entrance Church Lane's carriageway is 5.5 m wide but to the east this reduces to 4.8 m and to the west to 4.2 m. The eastern end of the lane, from the A1170 to the New River Bridge, is in a conservation area where the council has funds allocated for enhancing Wormley Square, which is adjacent, and the generation of heavy traffic through this area would be detrimental to the environment. The primary school had a pedestrian crossing on the lane and footways at the east end were very narrow, in some places only 1.1 m, and these are sources of potential danger to pedestrians if more lorry traffic is generated.

53. Cross-examined by Mr Hyde, Mr Batts said that he did not know when FP44 first became impassable, it had been included in the 1952 definitive map. He could not dispute the evidence that it was impassable before the appellants took possession of the site. It was only in May 1979 that the appellants were asked to reinstate the footpath. In May 1980 there were site discussions about a proposed diversion and the proposal was to be discussed at a committee meeting on 4 July. In his evidence in chief he had been referring to the effects on the roads of permitting the use of the site for soil processing. He realised that this was already going on but considered that the road was inadequate for the present volume of heavy traffic. He realised also that the completion of the restoration of the appeal site would generate additional heavy traffic loads.

54. Questioned by me, Mr Batts said that he knew of no reported accidents in connection with vehicles using the appeal site.

55. Addressing me on behalf of the Council, Mr Lewis said that Notice A was founded on Conditions 5, 6 and 8 of the 1949 planning permission. The appellants seemed to be in 2 minds about whether they did in fact want to continue excavating gravel and sand. Assuming that they did wish to do so, there was no evidence whatsoever that there was sufficient material left in the pit to justify an extension of the period given by the 1949 planning permission. All the gravel that was left appeared to be material required for lateral support of the site boundaries. After 45 years of extraction in a fairly small pit this was hardly surprising and the time had obviously come for the extraction to cease and complete restoration to be completed. When they purchased the site the appellants would have been well aware of the fact that it had 15 years or so of life left and they had put forward no grounds to justify an extension of the time given in the 1949 planning permission. Nor had they demonstrated that the 2 years given by the notice to complete restoration of the site was unreasonably short, all they had suggested was that the number of tipping vehicles using the site could be reduced by spreading them over a longer period. Whether 52,000 m³, or more than twice that amount of fill, was needed to complete the restoration it was a perfectly practicable proposition in 2 years provided the costs charged to tippers were kept low and the work was efficiently supervised.

56. If Notice A was upheld the need for Notice B would fall away but, considering the evidence, although some of the objects referred to in Notice B might be on the site because of their use in connection with the previously permitted uses of the site it was apparent that the site was being used for storing some of the stones and concrete etc picked out from spoil brought to the site with a view to subsequent use for the appellants' horticultural suppliers business. This was a material change in the use of the land which required planning permission. On ground (a) of this appeal it could never be accepted that land in an agricultural priority area and in the green belt was suitable for a storage use of this kind especially as the appellants already had their own nurserymen's premises at Goffs Oak.

57. It was claimed that use of the site for the soil preparation processes was a "natural and reasonable" use. But the Stevens Report had pointed out that planning considerations which affected mineral developments were different from those affecting other developments because minerals had to be extracted where they lay and it was rarely possible to weigh up the comparative planning merits of different sites. For this reason the approved Structure Plan made numerous exceptions for mineral developments to the guidance given for the siting of other developments and mineral extraction was in certain circumstances permissible where other developments would not be tolerated. Because gravel extraction had been permitted on the appeal site soil processing should not be permitted to get in by the back door and establish itself, the same considerations did not apply to the 2 developments even though their environmental impacts might be similar. There was also a time-scale distinction between mineral and other developments, the former is a finite process, once the minerals are extracted and the land restored it is completed and people affected by such developments should be entitled to rely on such an assumption: this has been the expectation of local residents in the Church Lane area (Document 7(1)-(9)).

58. The claim was also made that there has been no change from the situation in 1967/8 when the Minister gave permission for soil preparation on appeal. But it was clear from the Inspector's report that that development was taken as being on a far smaller scale than the subsequent use of the site, the production of 400 cu yds of processed soil in a year as compared with a weekly output of about the same volume which the appellants claimed was a fair average. The Inspector had been in no doubt that he was being asked to consider only a very small development and the appeal decision might well have been different if he had been aware of the scale of the development now said to have been in operation even in 1967. Moreover the 1968 planning permission had been firmly linked to the approved life of the pit so that it expired at the same time; it was regarded as justified even on so small a scale only because it would not prejudice the ultimate restoration of the land in 1979. Had it been appreciated in 1968 that the use would become the main use of the appeal site quite different considerations would have prevailed and the decision would have probably been the same as in the recent Cock Lane appeal where the development was very similar (Document 11). If, notwithstanding these arguments, it was decided to grant planning permission for soil processing it was urged that at least it should be restricted solely to the screening of earth and that the quantity to be processed should be strictly controlled.

THE CASE FOR AN INTERESTED PERSON

59. The Revd Alan Taylor, sworn said he represented Wormley Parish Council, Wormley School governors and the Wormley Playgroup Association and had been asked to express the apprehensions of these bodies to the development on grounds of the inherent traffic hazards. Mr Taylor pointed out that Church Lane was a minor road with inadequate footways much used by school children, particularly as at its east end was the school, which was on a split site with children frequently crossing the road. There were 350 pupils at the school. The playgroup met on 4 days a week in the Church Hall, close to the hump-back bridge, where there was no footway to protect mothers and children. Then there were the children from the Wormley Hill House to the west of the site who walked to and from school daily. Wormley was a large village of 6-7,000 persons which had trebled its population with the new housing estates and it was physically unable to accommodate the heavy lorry traffic which a soil processing plant or continuation of the mineral extraction would involve. They had been assured in 1976 that the heavy traffic serving the appeal site would stop in 1979. As for the restoration of the land he hoped that an effort would be made to ensure that some approach route other than by the east end of Church Lane would be insisted upon.

REPLY ON BEHALF OF THE APPELLANTS

60. Addressing me, Mr Hyde said that the council had been unduly influenced by the articulate objections of local residents, who had made many unsubstantiated complaints about the effect of the developments on local amenities, and by hearsay and trivialities, such as those which had prompted the quite unjustified Notice B alleging storage of scrap metal, skips and building materials. There had been argument about whether or not the Inspector holding the 1967 inquiry had realised that much more than 800 cu ft of soil was being processed daily even then but there could be no argument that a planning permission had been given then for soil processing with no limitation on the scale of use. The local authority must have known what was going on then, they would have hardly been concerned with a soil processing development which generated about 40 lorry loads of compost a year, less than one a week. They had brought no acceptable evidence of any increase in the scale of soil processing since 1967 and the appellants had said it was constant, apart from normal changes in production due to seasonal and other variations.

61. The use had been shown to be a peculiar one which hardly fitted into a neat planner's classification as either "industrial" or "agricultural" but, with the horticultural needs it fulfilled and the requirements for composting the soil of a large storage area, it was far closer to agriculture than it was to industry and could obviously not be accommodated on the usual industrial estate. In 1967 the Inspector considered it "fundamentally a green belt use closely allied to horticulture" (paragraph 25 of his report). The soil storage areas shown on Plans B and F were not intended to be precise and the appellants insisted that they required a very large area, about 5 acres, to accommodate the soil composting heaps. As for the traffic objections the use for soil processing would not involve any increase in lorry movements over the numbers for the last 16 years. The appellants' business was essentially a one-man business providing a much appreciated local service and they should be allowed to continue to do so, they could not afford to transfer the processing plant to a 5 acres industrial site even if such a site existed as the freehold or leasehold cost of such land would be prohibitive at present prices. If they are permitted to continue their use they would be ready to accept conditions restricting the use to soil processing only and no other industrial use, to their own firm only and to a limited period so that ultimate control would still remain with the local planning authority.

FINDINGS OF FACT

62. I find the following facts:-

1. The site is in the approved Metropolitan Green Belt and in an area designated of great landscape value.
2. The grounds of a children's home front the west side of Church Lane opposite the northern part of the site's frontage and there is scattered residential development further south on Church Lane. Apart from these developments the site is in a rural situation.
3. Hedges and trees on the site's boundaries provide an almost total screen when in leaf.
4. Visibility from the site's access to Church Lane is restricted in both directions. Church Lane is a narrow minor road with narrow or no footways. To the east of the site it crosses a narrow hump-backed bridge with poor forward visibility. There is a school, a parish hall and a conservation area beyond this bridge.

5. There is no local speed restriction on the stretch of Church Lane near the site frontage but there is no record of any reported traffic accidents involving vehicles using the site.
6. Part of the site was worked for gravel and sand before 1948 and the whole site has been worked since that date on a planning permission given on 30 June 1949 for 30 years.
7. About $\frac{2}{3}$ of the site's total area of $11\frac{1}{4}$ acres has been roughly refilled to about the level of the surrounding land but has not yet been graded, top-soiled or landscaped. The areas still unfilled form a central pit.
8. Mineral extraction on a small scale still continues from 2 areas, one on the site's east boundary right up to the boundary and the other close to the site entrance in an area which had been previously back-filled. About 8 or 10 lorry loads of hoggin or sand are extracted weekly and used mainly by the appellants company for their horticultural supply business.
9. There was a conflict in the evidence about the residual mineral content of the site. I preferred the evidence of the council that the pit is virtually worked out.
10. Use of part of the pit part of the site for soil processing was permitted by the Minister in 1968 for a period expiring on 30 June 1979.
11. Soil processing involves the composting of loam and turf imported to the site in $4\frac{1}{2}$ ft high stacks over a period of 8 or 9 months, mixing with imported peat and manure and with sand from the site and screening through a large electric screening plant standing on the pit floor and fed from the level of the recovered area.
12. The appellants' agent has tried unsuccessfully to find an alternative site for soil processing. The councils are unable at present to suggest a suitable site.
13. The proposed soil is sold in various mixtures, it is not used by the appellants for horticulture. The nearest alternative suppliers of processed soil in bulk are at Ongar and Kettering. In those places soil processing is done on farm land. Many of the appellants' customers, including public bodies have written testifying to the value of their services.
14. Parts of the recovered area of the pit are now used for the stacking of loam and other compost ingredients.
15. In his report on the 1967 inquiry the Inspector referred only to the production of 400 cu yds annually of John Innes compost, the process of which requires steam sterilisation. This compost is not now produced. The present output of other soil mixtures on average is about 20,000 cu yds annually and the appellants company maintain that at least half this volume was being produced in 1967.
16. Tipping on the site is subject to a licence issued under the Control of Pollution Act. Builders waste and other hard spoil is now used.
17. Although his original estimate was much larger, Mr Edward was not ready to dispute the council's estimate that the complete restoration of the site would involve a further $52,000 \text{ m}^3$ of spoil.

18. Complete restoration in the 2 years given by Notice A will involve heavy lorry traffic on Church Lane and for this reason the appellants would prefer the period extended to 3 years.

19. Existing uses involve about 50 lorry movements weekly.

20. At the time the site was inspected by a borough council officer there were some heaps of granite sets, concrete blocks and kerb stones, an old lorry, a vehicle body, disused plant and 7 empty skips on the site. Except for the skips these were still on the site when I inspected. There was no evidence that any of these objects were brought to the site for reasons other than in connection with the reclamation of the pit or the use for soil processing.

21. There is no trace on the ground of FP44 which is shown in the definitive map of 1952 crossing the site diagonally. It had already disappeared and was out of use in 1964 when the appellants acquired the site. Action to create a diversionary footpath along the west boundary of the site to join FP49 at the north-west corner has begun.

22. Many local residents oppose development of the site, mainly because of the consequent traffic generation on Church Lane and general disturbance.

CONCLUSIONS

63. Bearing in mind the above facts, the legal implications of which are matters for consideration by the Secretary of State, and considering first the appeal on ground 88(1)(b) against Notice B, it seems to me that Mr Edward's explanation, that the skips were on the site for short periods only and were left there by tipping contractors in the course of their tipping operations, that the "scrap iron and motor vehicles" are vehicles and machinery which have been used previously in connection with the 1949 and 1968 planning permissions and are now used for spares for machines working on the site, and that the "building materials" were in fact materials recovered from the tipped fill for use for internal site roads or, in a few instances, for sale, is a credible and satisfactory answer to the allegation, particularly in view of the negligible amounts involved. However, when Notice B was served the planning permissions had expired and so, although in my view the uses referred to in the notice were merely incidental to the previously permitted uses of the site, or in the case of the sale of kerb stones picked out from tipping material, could be regarded as de minimis, after 30 June 1979 they were in breach of planning control. But the breach was not, as alleged in the notice, a material change of use but in breach of the conditions requiring the permitted uses to cease on 30 June 1979 and thus I consider the notice incorrectly founded and invalid (*Miller-Mead v MHLG* (1963) 1 All ER 459).

64. On the planning merits of the appeals against Notice A and the refusal of planning permission the main issue is whether the appellant company should be permitted to continue soil processing on the site. This would involve discharging Conditions 5, 6 and 8 of the 1949 planning permission and the requirement of the 1968 decision letter that work should cease by 30 June 1979. It would mean that the central area of the pit, about $\frac{1}{3}$ of the total area, would remain unrestored and involve the use of part of the restored level for storage and composting of imported soil and other compost ingredients. The 1968 permission for soil processing use of part of the site seems to have been largely based on evidence that the scale of soil processing was so small that the additional use of the site for this purpose during the remainder of the pit's life would have no harmful effect on local amenities and generate negligible traffic. Whether or not this was a misunderstanding of the scale of soil processing actually going on in 1967 it is impossible now to

determine but, whatever the 1967 scale of use may have been, the present pattern of use, which the appellants wish to continue, involves a much larger area of land, estimated at 5 acres, for soil composting and storage, retention of the central "pit" area, continued use of the large screening plant, and 40 or so lorry movements a week.

65. The site's situation in the Metropolitan Green Belt and an area of great landscape value raises an immediate presumption on general policy grounds against a use of this nature, even though it is well screened from view, but in my opinion an equally strong objection arises from the fact that to permit a continuation of use will defer the complete reclamation of this site. The Structure Plan recognises that geological and economic considerations necessitate the exploitation of mineral deposits in the countryside at times but, although Policy 27 accepts in appropriate circumstances the after use of mineral pits for agriculture, leisure and refuse disposal, other uses of dry pits are only permissible in exceptional circumstances. The appellant company's use for soil processing has close links with agriculture and horticulture and, indirectly through use of the processed soil for sports fields, with leisure. The product clearly supplies a need and, now an important consideration, some employment. Objections to the use by the local residents seem in most of their letters to be inextricably mixed with their objections to the tipping required to restore the site and to the continuing gravel extraction and convincing evidence of real harm to local amenities other than from the use's contribution to the number of lorries using the inadequate approach by Church Lane was not forthcoming. Weighing up these considerations and other points made at the inquiry it is not my opinion that they suffice to justify deferring the restoration of the whole site after so many years of use in conflict with the character of the surrounding countryside and with the provisions of the Development Plan.

66. I was satisfied from my inspection and from the evidence that the pit is almost completely worked out and that there is no economic justification, after 30 years of use, to prolong the permitted period of exploitation. No reasons were given why the footpath should not be reinstated when the rest of the site is restored. I therefore consider, on ground 88(1)(a) of the appeal against Notice A that the conditions on which the notice is founded should not be discharged and that the appeal against the refusal of planning permission for continuation of the use of the site for the preparation of soil for horticulture should be dismissed.

67. If the appeal on ground 88(1)(a) against Notice B falls to be determined in my view no case has been advanced on planning grounds for the use of the site for the storing of the items referred to in the notice. The use is open to valid objections on policy and amenity grounds and this ground of appeal should fail.

68. On ground 88(1)(g) of the appeal against Notice A, although the appellants would prefer to continue to scrape the pit for remnants of gravel and sand deposits in their present rather desultory fashion they did not put forward any telling reasons why the period given in requirement 1(a) of the notice should be extended. I consider the 28 days given in the notice is a reasonable period in which to cease excavations. The same period was given in requirement 1(b) to cease the preparation of soil for horticulture but, having seen the volume of soil already maturing on the site, taking into account the time required for composting and bearing in mind the evidence given about the severe difficulties of finding an alternative site for this use, I regard the 28 days given as unreasonably short. It is too brief to allow the appellants to run-down this aspect of their business and complete contracts without unnecessary loss and too brief to permit them to transfer the operations to another site, if one can be found. I consider that the period could be extended to at least 6 months without hindering restoration works on the site. Requirement 1(c) gives 2 years for the restoration required by the 1949 permission. Although there

may still be some doubt about the amount of fill still needed to complete restoration it was not disputed that suitable fill could be attracted to the site within this period, although this would involve a heavy increase in lorry traffic on the inadequate approach to the site by Church Lane. In my opinion it would be preferable to complete the site restoration as quickly as possible rather than spread it over a longer period and I regard the 2 year period given as reasonable. If the recovery is to be completed in 2 years there is no reason why the footpath should not be reinstated in the same period (requirement 1(d)). None of the requirements of the notice are in my opinion excessive.

RECOMMENDATIONS

69. i. Notice A - I recommend that the notice be upheld subject to extension of the period for compliance given in requirement 1(b).
- ii. Notice B - If the notice is found to be valid, and if it is decided that development requiring planning permission is involved, I recommend that planning permission be not granted.
- iii. Section 36 Appeal - I recommend that the appeal be dismissed.

I have the honour to be
Sir
Your obedient Servant

T G LAWRENCE

APPEARANCES

FOR THE APPELLANTS

Mr G Hyde

- of Messrs Breeze & Wyles, Solicitors,
37 Bullsmoor Lane, Enfield,
Middlesex, EN3 6TF.

He called:

Mr C G Edward

- Managing Director,
C G Edward (Goffs Oak) Ltd,
of 104 Cuffley Hill, Goffs Oak, Herts.

Mr J K Frapwell

- of Messrs John Kay & Co, Surveyors and
Estate Agents, 258-260 High Street,
Waltham Cross, Herts.

FOR THE PLANNING AUTHORITIES

Mr R Lewis

- Solicitor, Hertfordshire County Council.

He called:

Mr J R Unthank

- Planning Assistant, Minerals Section,
Planning Department, Hertfordshire County
Council.

Mr D D Collins MRTPI
DipTP

- Senior Development Control Officer,
Broxbourne Borough Council.

Mr P J A Batts CEng

- Principal Engineering Officer,
Broxbourne Borough Council.

INTERESTED PERSON

The Revd Alan Taylor

- of Wormley Parish Church, representing also
Wormley School Governors and
Wormley Playgroup Association.

DOCUMENTS

Document 1

- List of persons present at the inquiry.

" 2

- Notice of inquiry sent to local residents and others.

" 3

- 1949 planning permission.

" 4

- 1968 appeal decision letter and Inspector's report.

" 5

- Refusal of 11 October 1979 to permit sand and gravel extraction.

" 6

- Decisions given on other applications for gravel extraction in
area (see Plan E).

DOCUMENTS (Contd)

- Document 7(1)-(9) - Letters from local residents and interested person.
- " 8(1)-(3) - Correspondence in 1977 and 1979 between County Planning Officer and appellants' agent.
- " 9(1)-(20) - Council Committee reports and resolutions and representations from public.
- " 10 - Extracts from approved County Structure Plan (Policies 24-27).
- " 11 - Decision letter APP/5251/A/79/3262 of 30 January 1980.
- " 12 - Licence for waste deposit at appeal site dated 26 April 1979.
- " 13(1)-(25) - Testimonials supporting service provided by the appellants.
- " 14 - Statement of background and purpose of the Hertfordshire Metropolitan Green Belt.

PLANS

- Plan A - Plan referred to in Notice B.
- " B - Plan submitted with planning application of 1 June 1979.
- " C - Plan referred to in Notice A, showing line of footpath No 44.
- " D - Location Plan submitted by county council.
- " E - Plan showing sites of nearby sand and gravel workings and applications etc.
- " F - Plan showing proposed soil processing area on filled-in pit.
- " G - Plan submitted with application E/280/48 (1949 planning permission).