



Town and Country Planning Act 1990

**APPEAL BY Mr John Croke, Mr Ryann Croke
LAND ADJACENT TO DARCY'S PLACE,
LITTLE BROOMFIELD, CHURCH LANE, WORMLEY, EN10 7QF**

**Appeal Ref: APP/W1905/C/26/3378144
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Proof of Evidence
Sharon Marie Threlfall
on behalf of Hertfordshire County Council

1. **Personal details**

- 1.1. My name is Mrs Sharon Marie Threlfall, and I currently hold the position of Principal Enforcement & Monitoring Officer in the Spatial Planning team for Hertfordshire County Council (“the county council”) as part of the Growth and Environment Department.
- 1.2. I have been employed within the Spatial Planning Unit since January 2004, working within the Enforcement and Development Management teams.
- 1.3. I hold a BSoc.Sc degree in Geography & Planning from Birmingham University, and an RPTI accredited MSc in Town Planning from Anglia Ruskin University. I am a Licentiate Member of the RTPI.

2. Introduction

- 2.1. These conjoined appeals (hereafter referred to as “the appeal”) relate to an Enforcement Notice (**CD1.7**) issued by Broxbourne Borough Council (“BBC”) on 6 February 2026 under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended) in respect of a site known as Darcy’s Place, Church Lane, Wormley (“the site”). The Enforcement Notice was accompanied by a Stop Notice (**CD1.8**).
- 2.2. The breach of planning control alleged in the enforcement notice is *‘without planning permission, the increase in ground levels through the importation and processing of inert waste.’*
- 2.3. The appellants in this matter are Mr John Croke and Mr Ryann Croke, who are the landowners.
- 2.4. The grounds of appeal relied upon by the appellants pursuant to section 174(2) of the 1990 Act are Ground (c), that those matters (if they occurred) do not constitute a breach of planning control; Ground (f), that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach, and Ground (g), that any period specified in the notice in accordance with section 173 (9) falls short of what should reasonably be allowed.
- 2.5. My evidence deals with matters only in respect of the appeal under Ground (c) which relates to compliance with an Enforcement Notice served by the county council in 1980.

3. **Background and Planning History**

- 3.1. Darcy's Place has previously been identified by the county council as Church Lane, reference number CM173.
- 3.2. The 4.36-hectare site is situated within the Metropolitan Green Belt, as identified in the adopted Broxbourne Local Plan 2018 – 2033. It is located approximately a mile to the west of the settlement of Broxbourne, and is accessed by the unclassified road, Church Lane, on which there are no highway restrictions, other than the speed limit.
- 3.3. The site has historically been used for the extraction of sand and gravel and lies within the Sand and Gravel Belt¹, but it is not identified as an existing site or a Preferred Area in the extant Hertfordshire County Council Minerals Local Plan Review 2002 – 2016.
- 3.4. The county council does not accept that the appeal site is a “dormant” site for the purposes of Schedule 13 and Schedule 14 of the Environment Act 1995, and this position has been set out to the appellant, Mr (John) Croke, in the county council's letter of 17 March 2026 (**CD6.8**).
- 3.5. The site is within Flood Zone 1, the lowest risk of flooding.
- 3.6. The Definitive Map shows that Footpath Hoddesdon 044 runs through the site with the following Definitive Statement:

“Commences from Church Lane at junction of Wormley West End Road. Proceeds through gravel pit to stile leading to FP45.”

At present, while the footpath entrance is signposted from Church Road, and from the field to the north, it is not clearly marked within the

¹ [Map of sand and gravel belt areas across Hertfordshire](#)

site, and the route is unclear due to the unauthorised works and the internal haul roads on the route that the footpath should take.

- 3.7. There are residential properties located to the south and east of the site. The wider area, to the west of the A10 is characterised by open fields and woodland, with a golf course located to the northwest.
- 3.8. The planning history of the site, as determined by the county council, commenced in 1949 with the grant of planning permission E/280-48 for “*sand and gravel excavation*”. A copy of that decision notice is attached at **CD2.1**.

Condition 5 of E/280-48 states that:

“The complete refilling of the excavation to the level of the surrounding ground, covering with a surface layer of soil not less than 12 inches deep capable of supporting plant life, and the initial cultivation of the site to the satisfaction of the Local Planning Authority.”

Condition 6 of E/280-48 states that:

“The work of filling to proceed concurrently with that of excavation, and as closely behind as possible, and both excavation and restoration to be completed within a period of thirty years.”

Condition 8 of E/280-48 states that:

“The applicants to take steps to secure the diversion of the footpath which crosses the site, to permit the continuation of the existing method of working and shall, on completion of the filling, restore and reinstate the footpath at the expense of the applicants.”

- 3.9. A letter dated 2 January 1968 (**CD2.2**) references two Enforcement Notices served by the Hoddesdon Urban District Council on behalf of Hertfordshire County Council; the second notice related to:

“the use of the premises and land on the north side of Church Lane, Wormley, for the preparation of soil for horticulture. (Enforcement Notice No.2).”

- 3.10. The letter states that, in quashing the enforcement notices:

“He hereby grants permission for the continuation of the use of land ... for the purpose of the preparation of soil for horticulture ... subject to the condition that this use of the land be terminated and the building removed on or before June 30th 1979.”

- 3.11. An application ref 7/584-79 for the continuation of *“preparation of soil for horticulture, together with landscaping of site”* was refused on 27 November 1979 **CD2.3**, and a subsequent appeal dismissed as part of the conjoined appeal decision notice dated 4 March 1981 (**CD2.6** - APP/5059/C/80/441, APP/5251/C/80/469, APP/5251/A/80/01164).

- 3.12. The county council Planning Development Control and Urgency Sub-Committee meeting of Thursday 27 September 1979 resolved to refuse application 7/520-79 for the *“continuation of use of gravel pit for the extraction of sand and gravel and continuation of filling and restoration”*, with the decision notice issued on 11 October 1979 (**CD2.7**), and *“to serve an enforcement notice requiring the land at Church Lane to be restored in accordance with the 1949 planning permission within a period of two years from the date of the enforcement notice.”*

- 3.13. Following this resolution, an Enforcement Notice was issued on 4 January 1980 (**CD1.1**), and it is highlighted that requirement (c) states: *“Within the period of two years beginning with the date on which this Notice takes effect to restore the land in the manner required by the first planning permission, ...”*

- 3.14. A linked appeal against the refusal of planning permission and against Enforcement Notices served by both the county council (Notice A) and Broxbourne Borough Council (Notice B) was determined in a decision notice dated 4 March 1981 (**CD2.6**), supported by the report (**CD5.2**) by Inspector T G Lawrence BA dated 14 July 1980, following the public inquiry on 1 July 1980 (APP/5059/C/80/441, APP/5251/C/80/469, APP/5251/A/80/01164).
- 3.15. The decision notice (**CD2.6**) dismissed the appeal against Notice A, subject to the variation in requirement 1(b) deleting the words “*twenty-eight days*” and substituting the words “*twelve months*”. Of particular relevance to the current appeal is that there was no amendment to requirement (c) (see para. 3.13 above) which, in turn, relies on Condition 5 of E/280-48 with reference to the restoration of the site (see para. 3.8 above).
- 3.16. An application for the “*restoration of gravel pit, construction of earth embankment, use of part of the land for soil manufacture & processing*” reference 7/0768-80 was refused in a decision issued on 9 September 1980.

Planning Policy

- 3.17. The extant planning policy is of limited if any relevance to the current appeal; the appellants have not made an appeal under Ground (a), and therefore a deemed application cannot be considered. The Inspector is not invited to determine whether or not the current activities at the site, as relate to the restoration of the former sand and gravel site are compliant or otherwise with extant planning policy, but only whether the current works are required to comply with the 1980 Enforcement Notice. It is acknowledged that the conditions applied to the 1949 planning permission do not match either the wording of current conditions or deliver the quality of restoration as would be

expected by modern standards, but that is not what the Inspector is invited to determine.

3.18. For the avoidance of doubt, the extant planning policy as relates to the site is as follows:-

- National Planning Policy Framework (updated 7 February 2025)
- Hertfordshire Minerals Local Plan Review 2002-2016 (adopted March 2007)
- Mineral Consultation Areas in Hertfordshire Supplementary Planning Document (SPD) (adopted November 2007)
- Hertfordshire Waste Core Strategy and Development Management Policies 2011 – 2026 (adopted November 2012)
- Broxbourne Local Plan (2018 – 2033)

The Emerging Minerals and Waste Local Plan is now on hold as the county council waits for the Secretary of State to issue a decision for an application on a Mineral Site included within the Plan which went to public inquiry in November 2024 and was reopened in April 2026.

4. Ground C – that those matters (if they occurred) do not constitute a breach of planning control

4.1. In respect of ground (c), the appellants state:-

“The Appellant’s case under Ground (c) is that the works do not constitute a breach of planning control because they are directed to achieving compliance with Condition 5 of permission E/280/48 and the requirements of the 1980 Enforcement Notice.”

4.2. Condition 5 of E/280/48 states:-

“The complete refilling of the excavation to the level of the surrounding ground, covering with a surface layer of soil not less than 12 inches deep capable of supporting plant life, and the initial cultivation of the site to the satisfaction of the Local Planning Authority.”

4.3. Mr (John) Croke’s barrister set out in para. 22 of his letter of 2 May 2025 (**CD6.12**) that, at the time of the original enforcement case, Mr (William) Croke deliberately set out to mislead Officers of the county council to accept that the restoration of the land had been completed, to avoid the cost of spreading soil for the final restoration of the site and that the site was not restored in compliance with the conditions of the 1949 planning permission.

4.4. Due to the passage of time, it is impossible to now demonstrate that ‘a *surface layer of soil not less than 12 inches deep*’ was placed on the land. While the appellants have asked whether trial pits have been dug, these would not now show 12 inches of topsoil due to compaction and settlement that would occur over time. The county council’s position is that an Officer of the county council carried out a site inspection in 1993 and found that the land was “*rough grassland – very overgrown with tall weeds + thistles*” and estimated that there was soil cover to a depth of 300mm (**CD5.25**), i.e. that the soil was

'capable of supporting plant life', and that in 1996, an Officer of the county council determined that the site was *"fully restored"* (**CD5.23**). While the county council does not have any records of trial pits, the appellants do not present any contemporaneous evidence that the site was not restored in line with the requirements of the 1980 Enforcement Notice. The only evidence that the appellants present with regards to non-compliance is a 2024 email (their Appendix 17); the surveys referred to in the email are not included in their Statement of Case. There is no judgement as to how the proposals, particularly the proposed restoration contours, compare to the restoration required under the 1949 planning permission.

- 4.5. Furthermore, if the appellant asserts that the current activities are in compliance with the 1980 Enforcement Notice, the original permission to which it is tied did not allow for soil processing through the screening of imported inert waste materials. In the statement of the County Planning Authority dated 1 July 1980 (**CD5.3**), given by Peter Unthank (Planning Assistant, Minerals Section), at para. 3.26 he refers to the delivery of *"loads of topsoil"*. It is clear that the county council did not anticipate that the landowner would need to screen material in order to produce topsoil, rather that it would be imported as a product, and as such the restoration of the site could be easily achieved within two years.
- 4.6. When the previous appeal considered whether the processing of soil for horticulture on the site was acceptable, Mr Lewis (Solicitor) of the county council highlighted the Stevens Report, pointing out that the planning considerations for mineral development were different from other forms of development. *"Because gravel extraction had been permitted on the appeal site soil processing should not be permitted to get in by the back door"* (**CD5.2**, para. 57). In determining the appeal, the Inspector upheld the requirements of the enforcement notice, subject to variation for the timeframes to cease soil processing, and

therefore also determined that soil processing was not an appropriate use on the land (**CD2.4** APP/5059/C/80/441, APP/5251/C/80/469, APP/5251/A/80/01164).

- 4.7. Therefore, the 1980 Enforcement Notice does not provide for the importation of inert waste materials for screening to produce soil, such importation for screening being demonstrated by the current stockpiles of construction and demolition waste and machinery on site. This position is further supported by Mr Unthank's letter of 15 June 1983 (**CD5.13**) highlights the need to "*obtain sufficient clean soil to comply with the requirements of ... Condition 5 of the planning permission*", rather than achieving topsoil through a screening process.
- 4.8. Prior to the formation of the Environment Agency in 1996, the administration and monitoring of Waste Management Licences rested with the county council. A letter from Kenneth Shaw & Co dated 28 October 1981 (**CD5.4**) sought the transfer of Licence 79/74 to William John Croke, who had access to the site from 28 September 1981 according to site visit notes of 28 January 1983 (**CD5.10**). At the Planning Committee on 5 April 1982 there was a resolution to revoke the Licence due to a failure to comply with the conditions of the Licence, including burning and the disposal of putrescible waste (**CD5.27**), a decision that was appealed.
- 4.9. Site inspection notes (**CD5.5**) from 25 August 1982 highlight the lack of progress that had been made towards the final restoration of the site; however, a letter dated 22 September 1982 (**CD5.7**) asserts that Mr Edwards has "*deposited there a considerable quantity of topsoil which itself is of considerable value*". This corroborates the handwritten site inspection notes (**CD5.8**) of 13 October 1982 which refers to "*suitable cover material being stockpiled to north of site*". However, it is acknowledged that the handwritten site inspection notes

(**CD5.11**) of 10 March 1983 identify an action to contact Mr Edwards regarding the removal of soil stockpiles to the south of the haul road.

- 4.10. It is clear from correspondence at the time, that there was some conflict between the revocation of the Waste Management Licence that had occurred in April 1982 and the county council acknowledgment in October 1982 that further infilling was required to comply with the requirements of the extant Enforcement Notice, and this is summarised in the internal Memorandum dated 21 October 1982 (**CD5.9**). On 14 March 1983, the County Secretary wrote to the Department of the Environment (**CD5.12**) requesting that the appeal be held in abeyance as tipping was "*now virtually completed*". A handwritten note dated 15 March 1983, at the bottom of the letter, added that there was still work to be done for the final restoration.
- 4.11. The County Secretary wrote to Mr (William) Croke on 20 January 1984 (**CD5.14**) that from 1 February 1984 "*the only waste deposited on the site should be clean soil or other soil-forming materials*" in accordance with the 1949 planning permission, and the Waste Management Licence (albeit that the licence was revoked). A further letter (**CD5.15**) to the Department of the Environment on 24 May 1984 states that "*the deposit of soil is still taking place*", and Mr (William) Croke's appeal against the revocation of the Waste Management Licence was finally withdrawn in a letter dated 9 November 1984 (**CD5.16**), a step which would only have been taken at such time as no further waste importation was necessary; i.e. that the restoration fill levels had been achieved.
- 4.12. An undated site report (**CD5.30**) which appears in the file after November 1984 and before March 1986 states that "*the site has been covered with soil to a depth in excess of 12 inches required by the planning permissions*". The report acknowledges that the restoration was inadequate by the standards even of the mid-1980s, and the site

operator is being encouraged to make improvements but cannot be compelled to do so.

4.13. A letter of 2 April 1986 (**CD5.17**) sets out the requirements to Mr (William) Croke for the restoration of the site, with follow up letters of 19 May 1986 and 19 January 1987 sent following no response from Mr (William) Croke. A site inspection note of 5 August 1987 (**CD5.21**) records that Mr (William) Croke was aggressive towards county council officers and stated he had no intention to comply with any further requirements, as set out in those letters, to restore the land. Following the site inspection, the County Secretary determined, in a Memorandum dated 3 September 1987 (**CD5.20**), that it would be inappropriate to prosecute for noncompliance with the Enforcement Notice, in part due to the time that had elapsed since works were completed.

4.14. In a letter from the county council's County Planning and Estates Officer, dated 8 April 1988 (**CD5.22**), in writing to a complainant it is stated that

"... the landform is acceptable and the site is covered by a depth of soil evidently capable of supporting plant growth albeit a poor vegetation. Legally, therefore, the conditions have to all intents been satisfied and as the site owner has sought legal advice he is well aware that in view of the foregoing any further legal action by this Council would almost certainly be in vain." (my emphasis)

4.15. It is therefore evident that the county council were satisfied that the restoration had been completed, as early as 1988, with soil placement recorded as being completed some time after November 1984 and before March 1986. There are no documents in the site file after April 1988 other than the site visit notes of 1993 and 1996. There is no record of a site visit until 16 August 1993, with the notes and site plan shown at **CD5.25**. This records the general condition of the site as

“fair”, albeit very overgrown, with no indication of further waste importation. The Officer records that the estimated soil cover is 300mm; there are no details as to how this estimation was made and the Officer no longer works at the county council. It is noted that the appellants state (para. 6.14) that 300mm (11.8 inches) of soil falls short of the requirement of 12 inches, but as this site visit would have occurred at least five years after the last inspection, Officers would expect to observe a level of soil settlement and compaction. The site was also described by a second Officer of the county council as *“fully restored”* in March 1996 (**CD5.23**).

4.16. There are no further records of any visits to the site until around December 2009 to March 2010, in response to complaints regarding the importation and deposit of waste materials. The county council does not hold any photographs from that time. In response to a letter written to Mrs Croke, who was identified as the landowner, a reply was received from Mr & Mrs (William and Rosemary) Croke dated 6 April 2010 (**CD5.24**), which states that *“... we strive to keep the land tidy, so it is suitable for use with livestock.”*

4.17. Further visits were made by county council officers in June 2020. Photographs from the site visit on 2 June 2020 (**CD4.5**) show that hardcore had been laid up to the palisade fencing and compacted. This has raised the level of the land to the extent that it is clearly higher than the adjacent land; whereas Condition 5 of the 1949 planning permission requires that refilling of the mineral void is to be *“to the level of the surrounding ground”*. It is also evident that hardcore has been placed on top of previously restored land which was capable of supporting plant life. Further photographs from a second site visit on 19 June 2020 (**CD4.6**) show a well-established grass crop within the field.

- 4.18. I carried out a site inspection together with David Hodbod (Head of Planning, Hertfordshire County Council) on 8 April 2026. The visit was unannounced. The gates were locked and no operatives were visible on site, but access was made via the footpath from Church Lane. There is no footpath diversion in place to ensure the safety of any footpath users while heavy machinery is in use on the site, although a request for a footpath closure appears to have been made by Mr (John) Croke in May 2025 (**CD5.31**). Broxbourne Borough Council has instructed that the footpath be “*fully reopened on its legal definitive line and width, in a fit, safe and unobstructed condition, no later than 8 May 2026.*” (**CD6.11**), although any further action is now on hold until a decision is reached in respect of the appeal.
- 4.19. There was a soil screener, two 360 excavators, a small dump truck and a small bulldozer in the southern corner of the site, adjacent to the locked gates. This was the first time that Mr Hodbod and I had visited the appeal site.
- 4.20. Photographs from the site visit are included at **CD4.7** and show that significant volumes of construction and demolition inert waste, including but not limited to bricks, concrete, plastics, metal and sub soil, have been placed on the land. In some areas, the existing top layer has been stripped back, while in others the inert waste has been placed directly onto the top layer of soil which has previously self-seeded and was capable of supporting plant life, as required by the 1949 planning permission.
- 4.21. The importation and screening of additional inert material, once restoration fill levels had been met, is not permitted under either the 1949 permission or the 1980 Enforcement Notice. Further, the process of deriving a topsoil through soil screening has already been considered, and dismissed, by a previous Inspector in their 1981 report (see para. 4.5 to 4.7 above, APP/5059/C/80/441,

APP/5251/C/80/469, APP/5251/A/80/01164). The retention of the additional imported material (which would require screening to produce topsoil) would raise the level of the land further above “*the level of the surrounding land*” which was set out in Condition 5 of the 1949 permission.

- 4.22. I attended the site on 4 June 2026, in order to meet with the local authority’s barrister and help to familiarise her with the site; Ayesha Johnson attended on behalf of Broxbourne Borough Council. Whilst I did not take any photographs during the visit, I noted that there were no significant changes at the site since my previous visit on 8 April 2026.
- 4.23. There was no discernible difference between the stockpiles of material within the land that formed part of the hatched area in the Enforcement Notice (**CD1.7**) and the wider site. The stockpiles across the site were consistent with construction and demolition inert waste as set out in paragraph 4.20 above. Further it was noted that some of the stockpiles in the north of the site (outside of the hatched area) had not self-seeded, indicating that the material had been recently placed on the land. Many of the stockpiles, including those within the hatched area would need to be screened to remove the materials such as bricks, concrete, plastics and metals in order to produce a topsoil product capable of supporting plant life.
- 4.24. Mr (John) Croke did not notify the county council of his intention to commence works, or state that this was to be in compliance with the 1980 Enforcement Notice prior to starting work on site. The county council first received a request for information relating to the site, and potential topographical surveys, from Broxbourne Borough Council in March 2024, and were subsequently advised by that council in January 2025 that the operator (the appellant) claimed to be carrying out works in compliance with the 1980 Enforcement Notice.

- 4.25. An Environmental Information Request was made on 27 January 2025 which only stated:

*“I am trying to get history of enforcement on land at Broomfield ,
Church lane , Wormley, Broxbourne
I am enquiring as a concern for BROXBOURNE COUNCIL , We
need to know under the freedom of information's act 2000, all records
of enforcement from 1979 onwards please. I'm particular an
enforcement dated 1980 ref : ENF/HCC/145
And 10/04/1996 ref: 5-2460”*

At the time of the request, the county council was not aware who had made the request for information, or that the appellant intended to rely upon the requirements of the 1980 Enforcement Notice to carry out any works. It should be noted that the request was made for “*all records of enforcement from 1979 onwards*”; the request did not ask for any site visit records, and this is the only reason that they were not provided at that time.

- 4.26. It is acknowledged that the response relied on the email previously sent to Broxbourne Borough Council on 2 April 2024, when there was a request for any topographical surveys and the 1949 planning permission. At that time, the county council offices were being relocated from County Hall, Hertford to new offices in Stevenage, and as a result the vast majority of older planning files were being placed in archive. The existence of a second file relating to the land was not identified until February 2025, and this included the site visit notes of 1993 and 1996. Notwithstanding, an offer to review the original files was extended to Mr (John) Croke in March 2025, but this was turned down.

- 4.27. Following a site meeting on 4 April 2025, Mr (John) Croke’s barrister wrote to the county council to assert that the works were being

undertaken in compliance with the 1980 Enforcement Notice. This letter is included as **CD6.12**. At para. 22, Mr Bell states:-

“The previous site owner was Mr. Croke’s father. Mr. Croke knew his father well and, indeed, well enough to know that he would have sought to bluff compliance to avoid the expense of spreading such a large area of soil. Indeed, the paper trail disclosed shows that it appears to have taken an exceedingly long time to get to a stage whereby the Council ceased to assert non-compliance. At that point in time, Mr. Croke considers that his father was successful in his bluff.”

4.28. Mr (John) Croke does not present any contemporaneous evidence of trial pits or other site records, or other first-hand knowledge to demonstrate that the requirements of the 1980 Enforcement Notice have not been met. During the 1980s and 1990s, the county council dealt only with Mr William Croke, and prior to that, Mr Edwards. Nor does the appellants’ Statement of Case establish why screening for the production of topsoil is necessary, when this is not permitted by the Enforcement Notice, and has already been considered, and dismissed, by a previous Inspector (APP/5059/C/80/441, APP/5251/C/80/469, APP/5251/A/80/01164).

4.29. The appellants have sought two Waste Exemption Registrations, which are included at Appendix 20 and 21 of the appeal statement prepared by KS Town Planning, on behalf of Mr John and Mr Ryann Croke. It would be for the Environment Agency to confirm whether or not the current works are authorised by those exemptions. Notwithstanding, the Environment Agency’s permit process is a separate regulatory function to town and country planning, and the existence of such exemptions does not confer planning permission.

5. **The status of the site as dormant minerals site**

- 5.1. The appellants state (para. 6.15) that the site's dormant status confirms that the land has not been fully restored under the original permission for minerals extraction. This is not correct. The dormant status is defined by guidance²; a site is a dormant site where planning permission was granted between 21 July 1943 and 22 February 1982, but where extraction has yet to take place. In 1980, Mr Unthank's proof of evidence at appeal asserted that the sand and gravel reserve had "*neared exhaustion*" (**CD5.3**, para. 1.4), and this was accepted by the Planning Inspectorate during the 1980 appeal (**CD5.2**, para. 62 (9)). A letter dated 2 August 1983 by Mr Unthank (County Planning Officer) states "... *no ballast or other granular material has been excavated since 1980.*" (**CD5.6**).
- 5.2. The county council does not accept that the appeal site is a "dormant" site for the purposes of Schedule 13 and Schedule 14 of the Environment Act 1995, and this position has been set out to the appellant in the county council's letter of 17 March 2026 (**CD6.8**). There are no records as to why the site was included on the list of dormant sites from that time, but county council's position is clear, and has been set out in that letter, that a site cannot be deemed dormant when the right to work a mineral reserve has expired under an enforcement notice.
- 5.3. Notwithstanding the county council's position with regard to the dormant status of the site, Mr (John) Croke's email dated 7 February 2026 (**CD6.7**) does not constitute a valid application for a review of the conditions applied to a dormant minerals site. The appellants have failed to set out their proposals for the site other than to claim compliance with the 1980 Enforcement Notice. The appellants have

² [Minerals - GOV.UK](https://www.gov.uk/minerals)

not submitted any new planning conditions for approval by the county council, were it accepted that the site qualifies as a dormant mineral site, and the current activities at the site do not consist of the winning or working of minerals or involve the deposit of mineral waste.

- 5.4. In the current context of imminent Local Government Reorganisation and under-resourced teams, the review of the list of dormant sites will not be a priority for the council. The county council does not consider the current form of the Register necessitates change. The council is required to consider whether a site is dormant at the time that a relevant application is made and the Register is not the determining factor of whether a site is Dormant or not. The Register, as is, does not determine how the county council should deal with particular sites and so there is no pressing need to spend, potentially significant, resources reviewing and amending it.

6. Conclusion

- 6.1. It is evident that during the 1980s the county council repeatedly attended the site in order to secure the restoration in line with the provisions of the 1949 planning permission and the subsequent 1980 Enforcement Notice.
- 6.2. Condition of 5 of E/280/48 states:-
“The complete refilling of the excavation to the level of the surrounding ground, covering with a surface layer of soil not less than 12 inches deep capable of supporting plant life, and the initial cultivation of the site to the satisfaction of the Local Planning Authority.”
- 6.3. The appellant’s father repeatedly delayed the restoration of the land but clearly presented, through the withdrawal of the appeal against the revocation of the Waste Management Licence in 1984, that no further waste importation was required. The appellants are now asking the Inspector to accept that Mr (William) Croke sought to deceive the county council, as set out in the letter from their barrister (**CD6.12**), discussed at para. 4.27 above. The county council relies on the letter of April 1988 (**CD5.22**) and the contemporaneous notes of Officers of the county council from 1993 (**CD5.25**) and 1996 (**CD5.23**) which estimated that the site benefitted from a soil cover of approximately 300mm by 1993, and that by 1996 the site was “fully restored”.
- 6.4. Further, it is clear from the evidence already considered by the Planning Inspectorate in 1981 that in achieving the final level of topsoil, it did not anticipate or permit the importation and screening of material to create that topsoil, as has occurred in 2025 prior to the service of the most recent Enforcement Notice and Stop Notice, but that topsoil would be imported for final placement. The current large

scale waste importation and screening operation clearly does not meet the requirements of the 1980 Enforcement Notice.

- 6.5. While the appellants' Statement of Case advises that Mr (John) Croke is willing to give evidence under oath (para. 6.18 b), it is noted that Mr (John) Croke had no direct dealings with the county council at the relevant time and all correspondence was with Mr (William) Croke. Indeed, in the same paragraph, it is stated that "*the land has never been suited to livestock*", in direct contradiction to the letter of 6 April 2010 (**CD5.24**) written by Mr & Mrs (William and Rosemary) Croke, thus demonstrating that there is an inconsistency with the accounts provided.
- 6.6. It is acknowledged that the restoration of the former sand and gravel site would not meet current standards of restoration. The standard of mineral restoration has improved significantly since both the grant of the original 1949 planning permission, and the 1980 Enforcement Notice that sought compliance with that permission. Restoration is ordinarily delivered through a phased approach, to ensure the appropriate and timely restoration of mineral voids, and this process is supported by more detailed planning applications and delivered through robust planning conditions. However, there is no provision within planning legislation for the Minerals Planning Authority to revisit previous planning conditions, other than through the RoMP process that cannot apply in this instance as set out at Section 5. Instead, the county council could only seek compliance with the planning permission as regulated by the conditions set out in 1949.
- 6.7. It is evident from the documents discussed above, including the 1988 letter and contemporaneous site visit notes from 1993 and 1996, that the Local Planning Authority was satisfied with this low-level restoration, in that it had delivered a covering of 12 inches of topsoil capable of supporting plant life, and that is the metric set out in the

1949 planning permission. It is not unreasonable for sites to continue to be monitored in the aftercare stage, it is now a requirement under the Minerals Monitoring Regime, but where there has been a history of breaches of planning control, the pragmatic approach would be to carry out ad-hoc visits to the site and its environs, as happened with this site.

- 6.8. The county council's position remains that the site was fully restored by 1996, and that the current activities are unauthorised and were not required in compliance with the 1980 Enforcement Notice. However, it is noted that while the barrister's letter as set out at para 4.3 and 4.27 refers to a "*bluff*", this does not form part of the appellants' current Statement of Case. Any earlier misrepresentation of the quality of restoration of the land would be a deliberate deception, and the inability of a person to benefit from such deception has already been clarified by the courts.
- 6.9. The Supreme Court has previously considered the question of deception, when looking at the case of Beesley³ which in turn informed the Court of Appeal regarding Fidler. The Supreme Court invoked "*the Connor principle*" which is the general rule of public law that no one should be allowed to profit from his own wrong. There is a clear financial benefit to be achieved from the importation, screening, processing and potential deposit, of inert waste on land which has previously been presented by the appellant's parents as restored, and in use for livestock. If it is determined that additional soils are required for restoration, then these can only be achieved through the importation of a final soil product and not derived from on-site processing, as no such planning permission for processing exists.
- 6.10. The county council is satisfied that there is contemporaneous evidence that the site was restored in compliance with the

³ Welwyn Hatfield Council v SoSCLG & Beesley UKSC 15

requirements of the 1980 Enforcement Notice, and that the current activities of soil processing exceed the provisions of the 1949 planning permission. The current works are not in compliance with the requirements of the 1980 Enforcement Notice.