Witness Name: Nick Brookes

Statement Date: 15.10.2025

Proof of Evidence

Appeal Reference: APP/EPR/684

Site: Green Lane, Wardle, Nantwich, CW5 6DB

Permit No. EPR/EP3798CS

Contents

I, Nick Brookes, trading as Nick Brookes Demolition and Waste Disposal, the Appellant, will say as follows: —

Introduction

1. I submit this statement in support of my appeal against the Enforcement Notice served by the Environment Agency under Regulation 36 of the Environmental Permitting (England and Wales) Regulations 2016 ("EPR 2016").
2. I understand that four main issues were identified by the Inspector at the Case Management Conference (CMC) on 9 September 2025:
    a. Whether my Environmental Management System (EMS) adequately identifies and minimises the risks of pollution arising from waste acceptance, storage, and treatment, with regard to waste classification and end-of-waste criteria.

b. Whether the scope of my Environmental Permit (EP) allows sub-40mm materials consisting of sand, grit, stone and reprocessed aggregate to be processed within the A2 soil processing facility.
c. Whether the Enforcement Notice meets all the requirements of Regulation 36(2) of the EPR.
d. Whether the doctrine of estoppel prevents enforcement action with regard to the processing of these sub-40mm materials on my site.

Background

3. I operate a waste facility at Green Lane, Wardle, under Permit EPR/EP3798CS, which authorises three activities: A1 (Waste Transfer Station), A2 (Soil Processing Facility), and A3 (Composting Facility). I've spent years building a business that's more than just waste management. It's a vital part of the construction supply chain in Cheshire. What started as a small demolition and recycling operation has grown into a group of companies that turn construction and demolition waste into high-quality, usable materials. Today, my businesses include Nick Brookes Recycling Limited, Nick Brookes Demolition, and Nick Brookes Concrete. We employ around 110 people directly and support another 20 subcontractors, from belt repair specialists to electricians and welders. These jobs matter not just to my team, but to the local economy.

4. At the heart of what we do is our wash plant, which can process up to 1,000 tons of material every day. This isn't just a piece of kit. It's the backbone of our operation. It allows us to take mixed waste and turn it into consistent, specification-grade aggregates, sands, and gravels that builders can rely on. We supply five ready-mix concrete companies, national merchants like Travis Perkins, and countless local builders and groundwork contractors. We even produce pipe gravel for land drainage. Without this process, these customers would struggle to get the materials they need, when they need them.

5. This approach didn't happen by accident. Years ago, the Environment Agency challenged me to improve how we handled waste. They made it clear that the old way of registering every site as a disposal route wasn't practical for house builders. So, working with EA officers like Andy Jobson, I invested heavily in washing technology. Dry screening wasn't good enough; it was weather-dependent and inconsistent. Washing gave us a way to produce reliable, high-quality recycled materials all year round. It was a big step forward not just for my business, but for sustainability in construction.

6. If I couldn't wash fines on the current basis, the impact would be huge. First, on my people: over 110 employees and 20 subcontractors would face uncertainty, and many could lose their jobs. Second, on my customers: ready-mix plants would struggle to keep running, builders' merchants would face shortages, and local contractors would see delays and rising costs. Third, on the environment: less recycling means more landfill and more reliance on virgin aggregates, which drives up carbon emissions and damages the landscape. We'd also lose the ability to supply consistent, compliant materials, which could lead to project failures and reputational harm across the supply chain.

7. This isn't just about my business it's about an entire regional ecosystem. The wash plant is the reason we can keep waste out of landfill, keep construction moving, and keep people in work. It's a process that was developed with regulators, and it delivers on their goals for better waste management. Taking that away would be a step backwards for jobs, for customers, and for the environment.

8. The entire business model at Green Lane is built around the Wash Plant and the principles of the waste hierarchy, reducing waste to landfill and recycling as much as possible for repurposing. Approximately 90% by weight of the construction and demolition (C&D) waste inputs are recycled as aggregate. Without the wash plant, the business will simply cease to operate. The plant is essential for achieving high rates of recycling and for providing a sustainable alternative to landfill for the region's waste.

9. When I was looking to improve recycling and recovery of aggregates at my site, I became aware of the WRAP Aggregates scheme, a government initiative set up to promote the recycling and recovery of aggregates from waste, supporting sustainable construction and resource efficiency. I was fortunate to have the support of John Barritt during this process. John isn't just any consultant, he is one of the most respected people in the recycled aggregates field, especially when it comes to the WRAP Aggregates Quality Protocol. He worked closely with WRAP and I understand that he helped write the guidance that everyone in the industry uses to make sure recycled aggregates are produced to the right standards and can be used as proper products, not just waste.

10. John Barritt sent me a report produced by WRAP and linked to its aggregate research programme, titled "Facilitating the Wider Use of Coarse and Fine Recycled Aggregates from

Washing Plants." This report was a useful resource, as it set out the technical and regulatory requirements for producing high-quality recycled aggregates from washing plants like mine. I believe we adopted many of the principles and incorporated this into our secondary aggregate production protocol. John Barritt considered our operation an ideal example of the 'urban quarry' concept. Urban quarry recycling is a systematic process for reclaiming, processing, and reusing construction and demolition (C&D) waste within urban areas. Waste materials from demolition, construction, and infrastructure projects are delivered to the facility, where they undergo manual and mechanical sorting to separate recyclables from contaminants. The recyclable materials such as concrete, bricks, stone, and asphalt are then crushed, screened by size, and washed to remove soil and impurities. Advanced equipment further cleans and separates the aggregates, which are regularly tested to ensure compliance with industry standards. Clean, recycled aggregates are stockpiled and distributed for use in new construction, landscaping, and road building. Non-recyclable residues are responsibly disposed of, and water used in processing is treated and recycled to minimize environmental impact. This is precisely how we operate.

11. I was able to secure government funding for the soil washing plant at Green Lane. This is not just a general claim: I submitted a detailed application to WRAP for capital support[1],which set out the project's aims, technical details, environmental benefits, and financial requirements. The application requested £709,780 in grant funding, representing 30% of the total project cost of £2,365,932, with the remainder financed by bank loans and hire purchase agreements. The project was designed to process construction and demolition waste, producing washed sand and aggregates for use by contractors and the public.

12. My application was successful, and on 7 September 2007, I received a formal Support Agreement from WRAP (Project No. AGG103-010: Washing Plant)[2], signed by both parties, confirming the award of up to £709,780 in grant funding for the installation and commissioning of the aggregate washing plant at Green Lane. The agreement set out the milestones, payment schedule, and all compliance requirements, including environmental and operational standards, and required me to use the funding solely for the project as described. The agreement also specified the minimum capacity and output targets, and required regular progress reporting and financial audits. The construction of the wash plant

[1] see "Nick Brookes Recycling Ltd WRAP Capital Support Application Document -CD,
[2] See Support Agreement Washing Plant —WRAP Project No. AGG103-O1O - CD

was completed in accordance with the application documentation. It was constructed and operates as can be seen today.

13. The central aim of the WRAP funded scheme at Green Lane was to wash the sub-40mm materials produced on site—specifically, to recover valuable materials i.e.— the sand, grit, stone, and reprocessed aggregate generated by the transfer station activity. This approach was fully aligned with government policy and industry best practice, maximising resource recovery and minimising waste to landfill. The EMS which accompanied the application for the Permit (and which described the plant part-funded by WRAP), made it abundantly clear that the wash plant would be accepting wastes from the transfer station activities to separate and recover recycled aggregates, soil and sand[3].

14. Initially the Green Lane site operated under both a Permit and a Paragraph 13 Exemption, which specifically allowed for the processing of sub-40mm fines derived from the treatment of construction and demolition (C&D) waste through the wash plant. This regulatory framework was central to the site's business model, enabling the recovery and recycling of valuable aggregates and supporting the objectives of the WRAP Aggregates scheme and government policy on sustainable waste management.

15. However, as the scale and complexity of operations increased, it was explained to me that the limitations of the exemption (notably regarding throughput, waste types, and operational controls) and not least the fact that the exemption was due to expire, necessitated a bespoke environmental permit. In full compliance with Agency requirements, as advised by my consultants, I proactively applied for the necessary permit to ensure that the site could lawfully and efficiently process sub-40mm materials as intended.

16. Throughout this process, I consistently acted in accordance with the Agency's instructions and expectations. The Agency's letter to me dated 3 October 2009[4] explicitly identified the need to cease mixing exempt and non-exempt waste streams and indicated that continued operation of the wash plant would require a permit or a variation to the existing permit. In response proposals were submitted to address these operational issues and we took steps to align site practices with regulatory requirements.

[3] See: Secondary Aggregate Production Protocol V2—CD4.1.
[4] See CD8.1et seq

17. The Agency's subsequent audit on 17 August 2010[5] further reviewed the site's compliance with the WRAP Quality Protocol and the operational standards of the wash plant. I note from the observations and recommendations that the audit acknowledged that the site was following a Quality Management Scheme and promoting good practice in recycling. The Audit also identified that the fines were being internally transferred from our permitted Transfer Station to the wash plant. While some documentation improvements were recommended, some of these related to matters that were applicable only to compliance with the exemption. The audit confirmed that the wash plant was operated under the appropriate exemption. It was clearly established, therefore, that fines were being internally transferred, and there was no objection to this beyond the need, for the purposes of the exemption, to establish that the feedstock was inert.

18. The Agency's communications, including the email of 21 December 2010[6] addressed to me, reiterated the requirement for the wash plant to operate under a permit if the feedstock could not be demonstrated as inert. I was advised to cease using certain fines until appropriate testing was completed and, if necessary, to expand the permit area. These instructions were met with cooperation and timely action from me, and I continued to engage constructively with the Agency either in person or through my Environmental Consultants, Oaktree Environmental, to ensure full compliance. By their very nature the Agency's communications made clear and were explicit that any issues they had with waste acceptance from the transfer station to the wash plant (i.e. the internal transfer) would be remedied by a permit.

19. The permit, as granted and subsequently varied in 2011, was expressly intended to facilitate the washing of sub-40mm materials produced on site, as reflected in both the supporting documentation and the Environmental Management System (EMS) which was submitted with the application. The EMS and associated documents made clear that processing of sand, grit, stone, and reprocessed aggregate from the internally transferred fines from the transfer station to the wash plant facility was a core part of the site's design and operation, and this was understood and accepted by the Agency at the time. I understand that the drafting of the permit was in the hands of the Agency and I have always assumed that it was written and would also be interpreted in accordance with the processes at the site, reflecting both the funding agreement with WRAP and all that the Agency saw on its visits

[5] See CD 5.2
[6] See CD 8.5

prior to the permit application. I have not studied the WRAP documentation or taken advice on the issue, but it troubles me that if the Agency were now correct about the need to test fines mid-process, that the beneficiary of the funding might be expected to return the grant.

Adequacy of My Environmental Management System (EMS)

20. My EMS has been regularly updated and was expressly incorporated into the permit at the time of its variation in 2011. The EMS describes and controls the movement of waste from the transfer station to the soil processing facility, including the processing of sub-40mm materials (sand, grit, stone, and reprocessed aggregate), which was the central aim of the WRAP-funded scheme.

21. Our waste acceptance process ensures compliance and sustainability from order to final disposal. Orders are taken by phone and managed through a paperless system, with jobs assigned electronically to drivers and all documentation issued digitally. Drivers photograph skips on delivery, inspect waste for prohibited items, and capture images of the load on collection. Restricted materials such as asbestos, plasterboard, POPs waste, fridges, and upholstered furniture are flagged immediately. On arrival at the facility, waste is weighed, photographed, and assessed. Material composition is recorded, problematic items are segregated, and customers are contacted if necessary.

22. The final stage involves processing the waste into its end products. Residual waste is directed either to landfill or incineration. Sand and other aggregates recovered from the process are supplied to the ready-mix industry and undergoes regular quality testing to ensure it meets industry standards. Sand and aggregate produced by the wash plant is tested every 4–8 weeks by an external consultant, with checks including grading, sulphur content, stone size, MOT specs, frost resistance, and WRAP protocol compliance. Filter cake, extracted from fine materials, is currently sent to landfill, but research is ongoing into its reuse in low-grade concrete or brick manufacturing.

23. All products are tested to meet industry standards, ensuring quality for the ready-mix sector and competitiveness with traditional quarry materials. The process supports environmental goals (such as BREEAM certification) and offers cost savings for developers. Regulatory compliance is maintained through proactive testing, transparent tracking, and adherence to end-of-waste protocols, with no issues raised by the Environment Agency.

24. Overall, this approach guarantees high-quality recycled materials that meet both industry and environmental standards.

25. The EMS:—

    a. Identifies the types of waste accepted and the processes undertaken, including those specifically supported by government funding.
    b. Sets out procedures for the safe handling, storage, and treatment of waste, including pollution prevention measures.
    c. Reflects the factual matrix and mutual understanding between myself and the Agency at the time of the permit's issue, including the objectives of the WRAP Aggregates scheme.

26. The Agency's criticisms of the EMS are unfounded. The EMS is consistent with the permit, the site's operational history, and the government-backed objectives for resource recovery. Any perceived deficiencies arise from the Agency's recent change in interpretation, not from any failure of the EMS itself. I understand from Mr Muia that the requirement in condition 1.1.1 of the permit that there needs to be a "written management system" incorporates more than a document described as an EMS. As Mr Muia says in his proof, the site follows the WRAP protocol with regular sampling and testing to ensure conformity with WRAP protocols.

Scope of My Environmental Permit (EP)

27. My position is that, when properly interpreted in light of its wording, the written management system and incorporated EMS, the factual context at the time of issue, and the WRAP protocols, the permit authorises the processing of sub-40mm materials, such as sand, grit, stone, and reprocessed aggregate, originating from the transfer station within the A2 soil processing facility.

28. I understand that the interpretation of the permit is a legal issue. However, the permit was varied in 2011 with full knowledge of my site's operations, including the processing of sub-40mm materials, which was the very purpose of the WRAP-funded investment. The Agency's officers were aware of and accepted these practices for many years, and the site's design and operation were shaped by government policy and funding requirements.

Moreover, the waste acceptance requirements relate to wastes imported into the facility, not to mid-process materials generated on site as part of the WRAP scheme.

Regulation 36(2) EPR 2016 – Validity of the Enforcement Notice

29. Although, again, I understand that the interpretation of The Enforcement Notice is a legal matter, I agree that it is defective since it fails to 'specify' the matters constituting the alleged contravention of permit condition 1.1.1, or the steps required to remedy such a contravention, The Notice is also imprecise and vague, so that it is impossible for me to respond effectively. In any event, the period for compliance was unreasonably short, especially given the site's history and the complexity of the operations.

30. In my opinion the Notice should be quashed for these reasons.

31. I do not consider the question of an 'estoppel' one on which I can properly comment. But I repeat that since 2011 and until recently, the Agency has accepted and regulated my site on the basis that sub-40mm materials (sand, grit, stone, and reprocessed aggregate) from the transfer station could be processed in the A2 facility, which was the central aim of the WRAP-funded scheme. I have always understood and relied on the fact that the permit drafted by the Agency has allowed me to carry out my activities at the site as I always have done ever since I applied for WRAP funding and the wash plant constructed. It seems to me that to allow the Agency to move the goalposts as this stage would be very unfair to me, my companies, our workforce, suppliers, customers and the local economy. It would also mean the purchasers of my aggregates (who use the material, for instance, as a material in which to lay pipes, or to make concrete), might have to find 'virgin' material instead of the recycled material I have produced for years.

Costs

32. I seek an award of costs on the grounds that the Agency has acted unreasonably, causing unnecessary expense, particularly given my site's compliance with government policy and funding requirements.

Conclusion

33. I respectfully invite the Inspector to allow my appeal. The entire business model, and the region's ability to recycle C&D waste at scale, depends on the continued operation of the Wash Plant. Without it, the business will cease to operate, and the environmental benefits

of recycling over 90% of C&D waste inputs as aggregate will be lost, resulting in a significant increase in waste to landfill.

Statement of Truth

I believe the content of this statement to be true.

Signed: N Brookes_____

Dated: 15 October 20225

Appendix: Summary of Proof of Evidence – Nick Brookes dated 15 October 2025

My name is Nick Brookes. I am making this statement to support my appeal against the Enforcement Notice issued by the Environment Agency, under Regulation 36 of the Environmental Permitting Regulations 2016.

1. My appeal focuses on four main issues:

a. Is my Environmental Management System (EMS) adequate?

b. Does my Environmental Permit (EP) cover the processing of sub-40mm materials?

c. Is the Enforcement Notice valid?

d. Does the principle of estoppel apply?

2. I run a permitted waste facility at Green Lane, Wardle, under Permit EPR/EP3798CS. The site includes a Waste Transfer Station, a Soil Processing Facility, and a Composting Facility. Over the years, I have built a group of companies that employ more than 110 people and support 20 subcontractors.

3. At the heart of our operation is a wash plant. It processes up to 1,000 tonnes of material each day. This plant allows us to turn construction and demolition waste into high-quality recycled aggregates, sand, and gravel. We supply these materials to ready-mix concrete companies, builders' merchants, and local contractors.

4. The wash plant was developed in response to guidance from the Environment Agency. I worked closely with officers, including Andy Jobson, to improve our recycling processes. With their encouragement, I moved away from dry screening and invested in washing technology. This investment was supported by a £709,780 WRAP grant, which covered 30% of the total £2.36 million cost.

5. The WRAP-funded project was designed specifically to process sub-40mm materials—sand, grit, stone, and reprocessed aggregate—from our transfer station. This approach matched government policy and WRAP's Aggregates Quality Protocol, which we followed closely, with help from industry expert John Barritt.

6. At first, we operated under both a permit and a Paragraph 13 Exemption, which allowed us to process sub-40mm fines. As our operations grew, I applied for a bespoke permit, following the Agency's advice. The Agency's communications and audits between 2009 and 2010

confirmed that we were compliant, and that the internal transfer of fines from the transfer station to the wash plant was accepted. The permit, varied in 2011, was meant to support this process, and our EMS reflected this operational model.

7. My EMS is robust and regularly updated. It was incorporated into the permit. It explains how we accept, handle, and treat waste, including pollution prevention and quality control. The EMS supports the WRAP-funded objectives and has never been challenged until now. I believe the Agency's recent criticisms are due to a change in interpretation, not any failure on our part.

8. Our waste acceptance process is thorough and technology-driven. Orders are taken by phone and managed through a paperless system. Drivers are assigned jobs electronically and document skip deliveries and collections with photographs. When waste arrives, it is weighed, photographed, and assessed. We identify and separate prohibited items such as asbestos, plasterboard, POPs waste, fridges, and upholstered furniture. This ensures compliance and traceability from collection to processing.

9. Our product testing process is just as rigorous. Recovered sand and aggregates are tested every 4 to 8 weeks by an external consultant. Tests include grading, sulphur content, stone size, MOT specifications, frost resistance, and WRAP protocol compliance. Filter cake, a by-product, is currently sent to landfill, but we are exploring options for its reuse in low-grade concrete or bricks. These procedures ensure our products meet industry standards and support sustainability goals.

10. I believe the permit clearly authorises the processing of sub-40mm materials within the Soil Processing Facility. This is supported by the permit's wording, the EMS, the site's operational history, and the WRAP funding agreement. The Agency was fully aware of these practices and accepted them for years.

11. The Enforcement Notice is vague. It does not specify the alleged contravention or the steps required to comply. I believe it is legally defective and should be quashed. I also believe the Agency's long-standing acceptance of our operations means they should not now be allowed to change their position.

12. If the wash plant is shut down, the consequences would be severe: job losses, supply chain disruption, increased landfill, and greater reliance on virgin aggregates. This would undermine sustainability goals and government policy.

13. I respectfully ask the Inspector to allow my appeal and award costs, as the Agency's actions have caused unnecessary expense. The wash plant is essential to my business, the local economy, and the region's ability to recycle construction and demolition waste at scale.

The contents of this summary proof are true.