

**From:** Levine, Cody  
**Sent:** 25 November 2020 16:22  
**To:** Development Control team  
**Cc:** Mindykowski, Adam  
**Subject:** RE: Further Information (Regulation 25) - Land at Lea Castle Farm, Kidderminster, Worcestershire - Ref: 19/000053/CM  
**Attachments:** Ecology comments 19\_000053\_REG3.docx

Hi Steve

Thanks very much for sharing this. Although there are a couple of matter which I'd look to NE and EA for confirmation that the applicant's proposals are acceptable, I've otherwise **no objections** to the scheme if suitably worded conditions could be imposed.

If anything in the attached needs further clarification or discussion, please don't hesitate to contact me

All the best

Cody

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**From:** Development Control team <DevControlTeam@worcestershire.gov.uk>  
**Sent:** 19 November 2020 13:10  
**To:** Levine, Cody <CLevine@worcestershire.gov.uk>  
**Subject:** Further Information (Regulation 25) - Land at Lea Castle Farm, Kidderminster, Worcestershire - Ref: 19/000053/CM

Dear Cody,

**Re-Consultation on a Planning Application (County Matter)  
Town & Country Planning Act 1990 (as amended)  
Town and Country Planning (Environmental Impact Assessment) Regulations 2017  
The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020**

**Submission of Further Information in respect of the Environmental Statement relating to the following planning application**

**Application Ref:** 19/000053/CM      **Grid Ref:** (E) 383959, (N) 278992  
**Applicant:** NRS Aggregates Ltd  
**Proposal:** Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement  
**Location:** Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire

On 10 January 2020 NRS Aggregates Ltd applied to Worcestershire County Council for planning permission for the above proposal. You will recall I consulted you on the above application for planning permission in February 2020.

Following the consideration of the comments that were received on the application and Environmental Statement, the County Council wrote to the applicant in June 2020 requesting further information in respect of the Environmental Statement. On 27 October 2020 the applicant submitted the requested further information, and the County Council are now seeking comments on this further information in relation to a number of matters including: water environment, ecology and biodiversity, landscape, agricultural land classification and soils, cultural heritage, transport movement and access, rights of way, and restoration and aftercare.

The applicant is seeking planning permission to extract approximately 3 million tonnes of sand and gravel over a total of 6 phases. The land would be progressively restored using site derived and imported inert material to agricultural parkland, public access and nature enhancement. The applicant estimates the development would take approximately 11 years to complete.

A copy of this further information together with the planning application, the plans, the Environmental Statement, the Non-Technical Summary and other documents submitted with the application can be inspected online at: [www.worcestershire.gov.uk/eplanning](http://www.worcestershire.gov.uk/eplanning) using the application reference 19/000053/CM until **4 January 2021**. When searching by application reference, please ensure that the full application reference number, including the suffix are entered into the search field. **Please note:** when viewing the County Council's Planning Application Website you may wish to use an internet search engine such as Google Chrome, Firefox or Microsoft Edge for improved performance and functionality compared to Microsoft Internet Explorer.

I would be grateful to receive any comments that you may wish to make on the further information / application by **4 January 2021** by email or by post to the address below. If this is not possible then please let me know.

***Due to the coronavirus (COVID-19) pandemic the majority of Council staff are working remotely. We have made arrangements for letters sent via the postal service to be distributed to the appropriate officer. Where possible, we encourage all comments / correspondence to be submitted by email or online using the above link.***

Please note that all correspondence regarding any planning application will be available for inspection by the applicant and any interested third parties.

Please do not hesitate to contact me if you have any queries.

Kind regards

Steve

**Steven Aldridge**

Team Manager – Development Management

Worcestershire County Council

County Hall, Spetchley Road, Worcester, WR5 2NP

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**To** | Steven Aldridge, Team Leader (Development Management)  
**From** | Cody Levine, Team Leader (Ecology)

**M E M O**

**Date** | 25<sup>th</sup> November 2020

**REFERENCE NUMBER:** Planning application 19/000053/CM

**SITE LOCATION:** Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire

**PROPOSAL:** Submission of Further Information in respect of the Environmental Statement relating to the following planning application: Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement

Dear Steve

**No objections, subject to imposition of appropriately worded conditions**

Thank you for this consultation. The Minerals Planning Authority has sought further information through a Regulation 25 request on 3 key biodiversity issues as relates to the potential for impacts within both the scheme's red line boundary and wider 'zone of influence' on: 1) designated sites of conservation importance, 2) priority habitats and 3) potential for development-led impacts on protected species. The additional information supplied has been most helpful in addressing these issues. There are a small number of cross-thematic matters which I would like to seek confirmation from the statutory agencies Natural England and the Environment Agency that they are also satisfied with, however assuming that they are in agreement the proposals are acceptable, and should you be minded to grant permission, I have no objections, subject to imposition of suitably worded conditions. I've proposed some draft condition wording for your consideration, based on British Standard BS42020:2013.

**Designated sites of conservation importance**

A letter drafted by BCL Hydro (18/9/20) provides further clarity with regards the hydrological connectivity between the proposed development site and nearby Hurcott and Podmoor Pool Site of Special Scientific Interest (SSSI), Hurcott Pasture SSSI, Stourvale Marsh

**Cody Levine**  
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Team Leader (Ecology)  
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SSSI and Puxton Marshes SSSI. BCL note that the development site is located below the groundwater levels of the nearby Hurcott and Podmore Pool SSSI and Hurcott Pasture SSSI) and hence is not predicted to contribute to flows. The applicant proposes that separation from the proposed development site posed by the Staffordshire and Worcestershire Canal (to Stourvale Marsh SSSI) and River Stour and canal (to Puxton Marsh SSSI) likely results in negligible potential for the development to result in negative impact at these locations. These seem sensible conclusions to me however I must admit the technical details lie outside my sphere of expertise, so I am reliant on the responses of the Environment Agency and Natural England to confirm the additional information provided by the applicant is indeed acceptable. **I'd be most grateful if you were able to confirm the position from NE and EA on this matter.**

I note that questions have been raised within the Regulation 25 request with regards the ongoing maintenance of the drainage scheme. I also note that the BCL Hydro letter states *"the open water ditches and linked ephemeral soakaway areas (above ground SuDS referred to above) are deemed preferable to subsurface features with regard to longer-term maintenance and operation, as well as providing the additional aforementioned ecological benefit"*. While surface water conveyance is indeed preferable to subsurface features, the ecological functionality of these features is unclear and further detail on planting scheme which benefits wildlife without compromising capacity or maintenance regime should be provided. Similarly, the 'ephemeral surface water management ponds' should not be entirely engineered simple depressions but, aligned with the design principles set out in the Worcestershire County Council SuDS guide ([https://www.worcestershire.gov.uk/info/20236/flood\\_risk\\_management/1045/flood\\_risk\\_and\\_development/4](https://www.worcestershire.gov.uk/info/20236/flood_risk_management/1045/flood_risk_and_development/4)) and should be landscaped to provide ecological as well as amenity and hydrological benefits. I recommend that detailed design and planned maintenance regimes throughout the aftercare period for all SuDS features should be submitted for the prior written approval of the Minerals Planning Authority (MPA). This detail appears missing from the submitted outline aftercare strategy (Appendix G) however this document is very helpful in establishing principles of management during the aftercare period, and a further iteration would go a considerable distance towards demonstrating these design details, as may be articulated by, for example, imposition of a condition requiring a Landscape and Environment Management Plan.

I understand a monitoring and mitigation scheme has been requested by Natural England to ensure no adverse impacts are caused through hydrological modifications to nearby statutorily designated sites. The BCL Hydro letter (18<sup>th</sup> September 2020) states that the "development is not expected to result in any negative impact at the identified sites". BCL note that the development site is located below the groundwater levels of the nearby

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Hurcott and Podmore Pool SSSI and Hurcott Pasture SSSI) and hence is not predicted to contribute to flows. The applicant proposes that separation from the proposed development site posed by the Staffordshire and Worcestershire Canal (to Stourvale Marsh SSSI) and River Stour and canal (to Puxton Marsh SSSI) likely results in negligible potential for the development to result in negative impact at these locations.

It is proposed that a formal monitoring program will be submitted for prior written approval and this will enable collection of groundwater quality data, this is agreeable and if forming part of the ecological monitoring required by the MPA through imposition of a condition will require no additional work by the applicant while providing the planning authority with additional comfort that groundwater quality and levels are appropriately maintained.

The BCL Hydro letter also states that *“the open water ditches and linked ephemeral soakaway areas (above ground SuDS referred to above) are deemed preferable to subsurface features with regard to longer-term maintenance and operation, as well as providing the additional aforementioned ecological benefit”*. While surface water conveyance is indeed preferable to subsurface features the ecological functionality of these features is unclear and further detail on planting scheme which benefits wildlife without compromising capacity or maintenance regime should be provided. Similarly, the ‘ephemeral surface water management ponds’ should not be entirely engineered simple depressions but, aligned with the design principles set out in the Worcestershire County Council SuDS guide ([https://www.worcestershire.gov.uk/info/20236/flood\\_risk\\_management/1045/flood\\_risk\\_and\\_development/4](https://www.worcestershire.gov.uk/info/20236/flood_risk_management/1045/flood_risk_and_development/4)) should be landscaped to provide ecological as well as amenity and hydrological benefits. Detailed design and planned maintenance regimes throughout the aftercare period for all SuDS features should be submitted for prior written approval of the MPA.

#### Biodiversity Action Plan/NERC.S41 ‘priority’ habitats

Turning to concerns raised with regards priority habitats, I am pleased that the applicant has amended the proposed restoration strategy so as to create a single block of ecologically valuable and more resilient acid grassland which will serve well to buffer additional woodland corridor planting along the site’s western boundary. This grassland ecotone will also provide compensatory habitat for protected species including barn owl and ground nesting birds if a positive management regime is secured throughout the aftercare period and so is very much welcomed.

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Concerns have been raised with regards ensuring an appropriate volume of appropriate sandy soil is retained and available to ensure successful establishment of acid grassland on an otherwise unimproved substrate. This ecological requirement is recognised in the outline aftercare strategy and the applicant's response to the Regulation 25 request confirms the appropriateness of existing soils (to be retained) in establishing acidic grassland and the intention to establish these habitats in Phase 1 of the scheme. I therefore do not anticipate any issues with achieving the proposed habitat creation scheme, which is very much welcomed, and believe this can be secured through operational and aftercare phases through imposition of a CEMP and LEMP condition (in accordance with BS42020:2013 and as proposed within ES Volume 1), together with a Biodiversity Monitoring Strategy to establish targets for 'success' and a monitoring and reporting schedule against those targets. With considerable experience in this area I would encourage the applicant to contact the Wyre Forest District Council Countryside Manager who may be able to offer additional advice and a source of harvestable seed from local acid grasslands under WFDC management.

The proposal to retain and protect veteran trees T5, T22 and T25 throughout the scheme is welcomed. I note that the Natural England standing advice (accessed 25/11/20) states that a buffer zone around an ancient or veteran tree should be at least 15 times larger than the diameter of the tree and 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter. The standing advice recommends that buffer zones should be planted with local and appropriate native species, which I believe is likely to be shown in the concept restoration plan as T25 is surrounded by native woodland planting, T5 is outside the red line boundary of the scheme and T22 will be situated within the reconfigured acid grassland area. Standing advice also cautions that any change to the water table must not adversely affect ancient woodland or ancient and veteran trees. I **therefore request further confirmation** from the applicant that the tree buffers proposed are considered unlikely to suffer adverse effects (particularly with regards T22) from predicted soil level changes and subsequent risk of de-watering.

Standing advice recommends use of mitigation measures to protect woodland from adverse effects, such as use of screening barriers to protect woodland or ancient and veteran trees from dust and pollution. I anticipate such measures to be captured through a CEMP for the scheme, which I believe could be imposed through use of a suitable worded condition.

I'd like to thank the applicant for the additional confirmation trees T4 and T19 will be retained and protected in full, with appropriate tree RPZ. I'd like to extend thanks also for

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submission of Appendix E which indicates that bund 2 can be achieved whilst also protecting the required tree RPZs.

I very much welcome the supporting Biodiversity Net Gain report and the 'headline figures' of +87.2% net gain as shown within this is commendable. However, I would require the accompanying DEFRA metric 2.0 spreadsheet in order to review and comment on the evidence itself in the context of the evaluation as set out in the report's narrative. Aligned with the findings and recommendations of Biodiversity Net Gain: Good Practice Principles for Development (CIRIA C776a, 2019) evidencing biodiversity net gain is a process which extends into the aftercare period through evaluating habitat establishment and condition management. As C776a sets out, this will require monitoring "data over a timeframe that is commensurable with the specific biodiversity features of the net gain design". I suggest that a Biodiversity Monitoring Strategy could be produced which would allow collation of monitoring data aligned with the purported habitat gains within the supporting Biodiversity Net Gain report. Templates are set out in Chapter 13 of C776a which I recommend are employed for BNG reporting throughout the lifetime of this development. This should include an update of the baseline, in this case by returning habitat data to Worcestershire Biological Record Centre which includes results of habitat creation (in the context of the Worcestershire Habitat Inventory) and the program of species monitoring effort.

#### Protected and notable species

Moving to protected species issues, I welcome the additional survey effort with regards otters and, recognising that opportunities exist for otters to become resident prior to commencement of extraction I concur with the approach proposed to minimise risk by undertaking an update walkover survey prior to works commencing. Similarly, I recognise that suitable opportunities for consequent occupation of the site by more mobile species, such as bats (within trees scheduled for felling) badgers and nesting birds may all reasonably be addressed through a CEMP (i.e. an update walk-over survey or endoscopic checks to be undertaken by an appropriately licensed ECoW).

Within this context I have also noted that one confirmed bat roost (and two possible bat roosts) have been identified as requiring licensed destruction and compensation, with derogation from The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 to be sought in the form of a Natural England mitigation licence. The bat roosts were not considered to be of high conservation importance due to low numbers of bats and presence of common and widespread species. With regard to the three derogation tests which the Minerals Planning Authority is legally required to consider, while I must focus my comments with regards Favourable Conservation Status and No

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Satisfactory Alternative tests, I believe there's no reason why appropriate compensation measures for the species involved couldn't be secured through this scheme, and therefore I predict an EPSL licence is likely to be granted by Natural England.

Application of an area of lighting restraint throughout the operational period of mineral development, as shown in the dark corridors plan, is expected to ensure opportunities for foraging and commuting bat species will be protected during the lifetime of the scheme. The Update Bat survey (Heatons, 2020) assesses the proposed dark corridor at Section 5, and makes recommendations that lighting typology, luminaire and light spill accessories, column height and location, lighting spill design modelling, lighting levels and timing should all be carefully considered.

I would anticipate a lighting strategy submitted for prior written approval of the minerals planning authority would be capable of undertaking the recommended lighting design assessments and should cross-reference the identified ecological receptors within the supporting bat survey reports. In addition, I would expect the dark corridor plans to be integrated within the scheme's CEMP so as to ensure cross-compliance with any need for temporary and/or task-orientated lighting.

Other forms of disturbance, including noise and dust, would need to be addressed through alternative measures, such as (where appropriate) installation of screening barriers to protect receptors beyond stand-off zones and bunds.

I'm supportive of the proposal to install a total of 5 bat boxes and 15 bird boxes within the site and western boundary woodland and welcome the proposal to use durable woodcrete-style materials. I recommend that the location, specification and monitoring regime for these features should be set out within the scheme's LEMP and Biodiversity Monitoring Strategy.

Considering ground nesting and birds species typically associated with agricultural settings such as yellowhammer, linnet, skylark and barn owl: I have some reservations that habitat loss and disturbance posed by the long operational lifespan of the proposed mineral development poses an overall negative impact to species. This must be balanced against the proposed net gain of suitable habitats, appropriate nest box provision and the positive management of these features which will be secured during the aftercare period. I note that the supporting assessments indicate these impacts are predicted to be 'minor' and 'limited' and I agree that the early restoration of acid grassland (in Phase 1) will contribute towards the mitigation of some of these impacts. Nevertheless, over a predicted 11 years operational lifespan, I am concerned that the overall effect will result in a minor residual

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adverse impact. I welcome the proposal for creation of skylark plots within agricultural land and would anticipate this to be set out within the scheme's aftercare strategy/LEMP.

The absence of dormouse records either within WBRC or the magic.gov cannot provide confirmation of the absence of this species within the scheme's boundaries or zone of influence. 'Appendix B' of the applicant's Regulation 25 response states that additional dormouse presence/absence surveys have been undertaken during 2020, and that these included boundary woodland. Although I have not been able to review this survey report I understand that the additional survey effort has identified no signs of dormouse occupation. An ecologist has assessed the habitats within and surrounding the boundary of the site as providing 'sub-optimal' habitat for the species, and they note that there is no connectivity between the site and the (2014) record of dormouse which was located 1.75km to the east. I would concur that the effects of habitat severance, including built development and highway, are significant for dormouse, as this is a species with limited mobility and very specific habitat requirements. While I would like to request a copy of the 2020 dormouse surveys for the MPAs records, based on the survey findings as has been summarised in Appendix B, I would concur with predictions that there are unlikely to be any direct impacts to dormice. Indirect effects upon the adjacent woodland, such as might occur by dust, vibration, light and noise emissions, are capable of being controlled through a CEMP as previously discussed, and I believe the lack of connectivity to other blocks of ancient woodland significantly reduces risk of dormouse dispersal to and occupation of woodland or hedgerow features in the interim. Conversely, the creation of woodland corridor planting will increase arboreal connectivity and woodland margin habitats which, if they are able to disperse to this site in the future, will only be of benefit to dormice.

Subject to confirmation that the implementation of a tree root protection zone around veteran tree T22 will be sufficient to ensure a functional buffer unaffected by any changes to the water table, and confirmation that EA and NE are satisfied with the additional information provided by BCL Hydro, I have no objections to the scheme, subject to imposition of the aforementioned conditions.

For your consideration, and based on wording in BS42020:2013, may I suggest the following:

Construction and Environmental Management Plan (CEMP)

**Prior to commencement, a detailed CEMP should be submitted for the written approval of the CPA** and include consideration of:

- a) Risk assessment of potentially damaging construction activities.
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- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.

*This may be provided as a set of method statements and should include working practices to minimise impacts of noise, dust, vibration and to avoid impacts to roosting bats in trees to be removed, nesting birds, otter, badgers, hedgehog and any other wildlife considered to be at risk. Measures to mitigate operational-phase lighting impacts and to minimise risks of pollution events in line with EA's now withdrawn PPG5 guidance should be included.*

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the operational period strictly in accordance with the approved details, unless otherwise agreed in writing by the Minerals Planning Authority.

#### Landscape and Ecological Management Plan (LEMP)

A LEMP shall be submitted to and **approved in writing by the Minerals Planning Authority prior to the commencement of the development.**

I'm supportive of the proposed Landscape Management Plan proposed by my colleague Adam Mindykowski (email dated 20<sup>th</sup> March 2020) and concur that a period of 10 years landscape maintenance for aftercare and monitoring would be helpful to ensure that Biodiversity Net Gain has been achieved (noting that the emerging Environment Bill will, when enacted, require a 30 year monitoring and enforcement period for habitat measures implemented to achieve the stated biodiversity net gain). However, I note that the only matter not fully addressed in Mr Mindykowski's proposed condition wording is as relates to explicit targets of 'success' for proposed measures, the ongoing monitoring regime and remedial measures should objectives fail to be met within timescales set out. I therefore suggest that some of this detail may be more appropriately located within a separate Biodiversity Monitoring Strategy (below). However, should you wish to amalgamate these conditions I suggest that the LEMP should also include BMS details including specification of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

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The LEMP should also therefore set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details

As a minor matter may I also request that the LEMP explicitly requires the collection and removal of plastic tree guards on completion of aftercare, or specifies use of bio-degradable tree guards, is explicit that application of insecticide or fungicides will be avoided as will use of peat anywhere within the restoration scheme. No fertilisers will be required or are desirable within the acid grassland habitat.

#### Lighting Strategy

**Prior to commencement, a “lighting design strategy for biodiversity” for the development site shall be submitted to and approved in writing by the Minerals Planning Authority.**

The strategy shall integrate work to date identifying ‘dark corridors’ within and adjacent to the site and:

- a) identify those areas/features on site that are particularly sensitive for bats and invertebrates and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed, through provision of appropriate technical specifications including optic photometric data and contour plans (in both horizontal and vertical planes) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.  
*mitigating technology including timers, movement detection, dimming and part-lighting, strategy, warm colour spectra, shields/baffles/cowls etc designed to protect 'dark buffers' around identified sensitive habitats are all welcomed, these measures should be clearly illustrated spatially within the lighting strategy.*

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Minerals Planning Authority.

#### Biodiversity Monitoring Strategy (BMS)

**No development shall take place until a Biodiversity Monitoring Strategy has been submitted to, and approved in writing by the Minerals Planning Authority.** The purpose of the strategy shall be to ensure the effectiveness of all delivered biodiversity measures for a period of no less than 10 years. The content of the Strategy shall include the following:

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- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of development.
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis.
- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Minerals Planning Authority at intervals to be identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Minerals Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

To this end I would ask that the BMS also included periodicity for habitat extent and condition assessment making use of the DEFRA Biodiversity Metric 2.0 and Technical Supplement (or other tool with prior written approval of the CPA). Both metric and supporting assessment report should periodically be submitted to demonstrate monitoring and effective delivery of net gain measures proposed.

Explanatory memorandum

To comply with Policies CP13 and CP14 of the adopted Wyre Forest District Council Core Strategy (adopted December 2010) and Policies 11D and 14 of the emerging Wyre Forest District Council Local Development Plan.

I trust this meets your requirements but please don't hesitate to contact me if I can be of further assistance.

Yours sincerely,

Cody Levine

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