

IN THE MATTER OF:

SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990

and

AN APPEAL BY NRS AGGREGATES LTD AGAINST THE REFUSAL OF PLANNING PERMISSION BY WORCESTHIRE COUNTY COUNCIL OF PROPOSED SAND AND GRAVEL QUARRY WITH PROGRESSIVE RESTORATION USING SITE DERIVED AND IMPORTED INERT MATERIAL TO AGRICULTURAL PARKLAND, PUBLIC ACCESS AND NATURE ENHANCEMENT ON LAND AT LEA CASTLE FARM, WOLVERLEY ROAD, BROADWATERS, KIDDERMINSTER, WORCESTERSHIRE

PINS Ref: APP/E31855/W/22/3310099

County Council Ref: 19/000053/CM

OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

1. This appeal concerns an application by NRS Aggregates Ltd for planning permission to quarry sand and gravel from land situated at Lea Castle Farm on Wolverley Road, Broadwaters, Kidderminster in Worcestershire ('the Site'). The site will be progressively restored using site derived and imported inert material, to create an agricultural parkland, public access and nature enhancement.
2. The application was supported by a suite of documents, in which all aspects of the proposal, both positive and negative, were subjected to the most

detailed and comprehensive scrutiny. All of this documentation, and additional documentation generated for the purposes of this appeal, has been made available as part of this inquiry for public perusal and comment.

3. This documentation considers a whole range of issues, including but not limited to, Green Belt ('GB') openness and purposes, landscape and visual effects, heritage, ecology and biodiversity, trees, noise, air quality, transport and highways, agriculture and soils, archaeology, hydrology, leisure, recreation (including public rights of way and bridleways) and human health. The application was the subject of several requests for further information under the Environmental Impact and Habitats Regulations. All of these have been complied with, and the last submitted information updated the assessment of the cumulative effects of the proposals (i.e. the effects when considered cumulatively with other committed development, as well as the adverse effects of the proposal considered cumulatively with each other).

4. As part of the process of determining this application the professional planning officers of the Council consulted an array of statutory and non-statutory consultees to provide professional, expert opinion on all of these issues. We set out the list of consultees who responded so as to give this Inquiry an idea of the breadth of issues that were considered and the status of those who considered them:

Wyre Forest District Council Conservation Officer;

Wyre Forest District Council Countryside and Parks Manager;

Environment Agency;

County Public Health Practitioner;

Worcestershire Regulatory Services;

County Highways Officer;

County Footpath Officer;

Ramblers Association and Malvern Hills District Footpath Society;

Sustrans;
Canals and Rivers Trust;
Severn Trent Water Limited;
North Worcestershire Water Management;
Historic England;
County Archaeologist;
Natural England;
Worcestershire Wildlife Trust;
County Ecologist;
County Landscape Officer;
Forestry Commission;
Woodland Trust;
Gardens Trust;
Hereford & Worcester Gardens Trust;
Hereford & Worcester Earth Heritage Trust;
Hereford & Worcester Fire and Rescue Service;
West Mercia Police;
Western Power Distribution;
ESP Utilities Group Ltd;
Last Mile;
Cadent Gas; and
County Sustainability Officer.

5. All of these consultees considered the proposals very carefully, some initially raising concerns and asking for additional information. However, once they were provided with all of the information they sought, each and every one of

these consultees made it clear that they had no objections to these proposals, subject to the imposition of conditions that would control the matters that they wanted to see controlled. The British Horse Riding Society were also consulted, and they made it clear that they had no objection to the proposal as such. Their outstanding objection relates to the decision taken not to upgrade footpath WC-623 to a public bridleway, something that the Applicant had originally proposed. However, the Council's Head of Planning advised that this upgrade was not necessary, would not meet the CIL tests/tests for the imposition of conditions, and the upgrade would have adverse impacts that would not be outweighed by any advantages (given that the impact on the footpaths was acceptable in any event).

6. The professional planning officers of the Council took on board all of the above consultation responses, and produced a most impressive and comprehensive Report to Committee ('RTC') running to some 220 pages in which they considered all of the outstanding objections from local residents, the Town and Parish Councils, CPRE, Wyre Forest District Council and its Tree Officer. They concluded and recommended that the application should be approved. With the sand and gravel landbank sitting considerably below the 7 years supply mandated by both local and national policy there was a clear unmet need for the minerals in question. The National Planning Policy Framework ('NPPF') makes clear that mineral extraction constitutes 'appropriate' development in the GB provided it preserves the openness of the GB and does not conflict with GB purposes. The officers found that there was nothing untoward or unusual about this particular minerals extraction proposal, it would preserve GB openness and not conflict with GB purposes, and would therefore constitute appropriate development in the GB. In the absence of any technical objections from any of the statutory and non-statutory consultees, there was no reasonable basis for refusing permission.
7. Despite all of this, and despite the absence of any evidence to support their position, the members of this Council decided to refuse planning permission, citing no fewer than 9 reasons for refusal ('RFR'). The fact that the Council

was forced to withdraw all but one of these RFR when the Appellant appealed to the Secretary of State tells its own story about how unreasonable it was for the Council to refuse planning permission based on technical matters contrary to the advice of all of the statutory consultees.

8. The Council now seeks to defend one reason for refusal only, namely that this proposal constitutes inappropriate development in the GB and that there are no Very Special Circumstances ('VSC') to justify it. We will explore this in evidence, but for present purposes it is sufficient simply to note that the Council's position, whilst supported by Mr Whitehouse who is to be called on its behalf, is not supported by its own professional officers who have quite rightly decided to have nothing to do with defending the Council's refusal of permission.

9. The Stop the Quarry Campaign ('STQC') have taken R6 status and continue to object based on all of the original 9 RFR, and indeed some grounds additional to those raised in those 9 RFR. All of the matters they raise, save for impact on GB openness and purposes, require technical knowledge and appraisal. They have served planning evidence from Mr Partridge, a qualified planner, but his conclusion that the application is in breach of the DP is, with respect, wholly misconceived and relies for the most part on the 'technical' objections raised by his witnesses. But none of those witnesses have the necessary qualifications and training to speak with authority on these technical matters. The evidence they have submitted is based on understandable concerns, worries and anxieties, but such emotions are not a substitute for applying relevant guidance and standards. If there is to be any consistency and predictability in the planning process, the relevant guidance and standards must be applied. Once that is done, as the Appellant's witnesses and the statutory consultees have done, it becomes clear that it is not possible to refuse this application on the basis of the concerns raised by STQC.

10. It is for this reason that the Appellant has decided that it will not seek to cross-examine on the vast majority of the evidence submitted by STQC. No disrespect is intended to the witnesses who have clearly put in a lot of time and effort to communicate their concerns to the Inspector, and neither should the lack of questioning be interpreted as an acceptance by the Appellant of any of the points taken by the R6. The fact is that the answers to all of the questions and concerns raised by the R6 are already within the Appellant's various reports, the responses of the various consultees and now in the evidence submitted by the Appellant to this Inquiry (including two reports by way of rebuttal to evidence that was received late). The Appellant will take the opportunity to get its own witnesses to further elaborate on the approaches that have been taken to assessing impacts, and explain how and why relevant standards are met. Doing anything more than this would not be a proportionate use of Inquiry time.

11. It is the Appellant's case that in truth this case comes down to two questions:

- a. Is this proposal appropriate development in the GB? If it is, there is no DP or other policy basis for refusing planning permission.
- b. If not, are there VSC to justify the grant of planning permission? The Appellant submits that the second question does not arise but, if it does, there clearly are VSC which warrant the grant of planning permission.

12. For all of these reasons we will, in due course, be inviting the inspector to allow this appeal and grant planning permission.

Satnam Choongh
Number 5 Chambers

28 FEBRUARY 2023