

**WORCESTERSHIRE COUNTY COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**SECTION 78 APPEAL**

---

**Appeal by NRS Aggregates Ltd** against the refusal of planning permission by **Worcestershire 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.**

---

Planning Inspectorate Reference: APP/E1855/W/22/3310099

County Council Reference: 19/000053/CM

---

**STATEMENT OF CASE OF  
WORCESTERSHIRE COUNTY COUNCIL**

<b>Contents</b>	<b>Page</b>	
1.0	Introduction	3
2.0	Relevant Planning Policy	4
3.0	Reasons for Refusal	5
4.0	The County Council's Case: Green Belt	7
5.0	The County Council's Case: Impact on Amenity	12
6.0	Planning Balance and Conclusions	15

#### **List of appendices**

WCC1	Wyre Forest District Council Green Belt Review Analysis September 2016
WCC2	Wyre Forest District Council Green Belt Part II May 2018
WCC3	Wyre Forest District Local Plan 2022
WCC4	Lea Castle Village Draft Framework Masterplan
WCC5	Planning Decision Notice 17/0205/OUTL, Former Lea Castle Hospital
WCC6	Officers Report for Decision 17/0205/OUTL, Former Lea Castle Hospital
WCC7	Phasing Plan, Former Lea Castle Hospital
WCC8	Planning Decision Notice 19/0724/RESE, Former Lea Castle Hospital
WCC9	Approved Layout Plan 19/0724/RESE, Former Lea Castle Hospital
WCC10	Decision Notice, Location Plan and Layout Plan for 18/0163/FULL Land off Stourbridge Road
WCC11	Decision Notice and Location Plan 19/000048/CM, Bow Farm Quarry
WCC12	Decision Notices and Location Plans 20/000009/CM & 20/000015/CM, Ryall North Quarry
WCC13	Decision Notice and Location Plan 21/000029/CM, Sandy Lane Quarry
WCC14	Worcestershire County Council Sand and Gravel Landbank Position Statement
WCC15	Photographs of Appeal Site from Key Views
WCC16	Judgment, Mr Justice Burton [2007] EWHC 1427 (Admin)
WCC17	Judgment, R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3
WCC18	Judgment, Turner v SoSCLG and East Dorset Council [2016] EWCA Civ 466
WCC19	Judgment, Timmins and A W Lymm Limited v Gedling BC [2014] EWHC 654 (Admin)
WCC20	Planning Appeal Decision 3298447, Brown Westhead Park, dated 25/11/22

## 1.0 Introduction

- 1.1 This Statement of Case relates to an appeal lodged by NRS Aggregates Ltd (“the Appellants”) to the Planning Inspectorate (“PINS”) on 7<sup>th</sup> November 2022 (PINS reference APP/E1855/W/22/3310099). The Statement sets out the case for Worcestershire County Council as the Minerals Planning Authority (“WCC” or “the Council”) in respect of the appeal which is made following the decision of the Council to refuse planning permission for application 19/000053/CM at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster on 27<sup>th</sup> May 2022.
- 1.2 The appeal development is described as follows:  
*“Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement”.*
- 1.3 The appeal will be determined by way of an Inquiry scheduled to be heard over 6 days commencing 28<sup>th</sup> February 2023.
- 1.4 Throughout this statement references made to documents appended to this statement are given the prefix “WCC”.
- 1.5 The appeal site measures approximately 46 hectares in area and is primarily comprised of agricultural land within the historic parkland setting of Lea Castle. The site is located approximately 2.3 kilometres north of Kidderminster town centre, approximately 700 metres and 890 metres east of the villages of Wolverley and Fairfield, respectively, and approximately 370 metres south of the village of Cookley.
- 1.6 The appellants seek planning permission for 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.
- 1.7 The appellants seek to extract approximately 3 million tonnes of sand and gravel from an area totalling approximately 26 hectares within the site. Extraction would take place at a rate of approximately 300,000 tonnes of sand and gravel per annum.
- 1.8 A detailed description of the site location, planning history and proposed development is provided within the Statement of Common Ground.

## **2.0 Relevant Planning Policy**

2.1 A detailed description of the relevant planning policies are provided within the Statement of Common Ground.

2.2 Reference to the following statutory Development Plan documents will be made within the Council's proof of evidence:

- The Worcestershire Minerals Local Plan (adopted July 2022);
- Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012); and
- Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022).

2.3 Reference to the following will also be made within the Council's proof of evidence, as material considerations:

- National Planning Policy Framework ("Framework") (2021)
- The National Planning Policy for Waste (2014) (NPPW)
- National Planning Practice Guidance (PPG)
- Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Minerals Dust Impacts for Planning', May 2016.
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017

2.4 The Council will refer to other planning applications, appeal decisions and case law relevant to the appeal in evidence. These are included within the appendices of this submission and will sought to be provided in agreement with the appellant as Core Documents.

2.5 The Council will refer to the publication of the latest Local Aggregate Assessment (LAA) from which the Councils landbank position can be subsequently calculated; the LAA is expected to be published by the end of January 2023. The Council will provide a landbank position statement following the publication of the LAA which will be considered in evidence and this is referred to as appendix document WCC14.

### 3.0 Reasons for refusal

3.1 The application, now the subject of this appeal, was considered by WCC Planning and Regulatory Committee on 24 May 2022. The Committee considered an Officers report, the appellants planning application reporting and the submissions made by interested parties, and resolved to refuse planning permission for the following reasons:

1. Contrary to Policy 2 (Other Sand and Gravel Deposits) of the County of Hereford and Worcester Minerals Local Plan (Adopted April 1997) (Saved Policies);
2. Unacceptable impact on openness of the Green Belt;
3. Unacceptable impact on residential amenity and local schools;
4. Unacceptable impact on the local economy;
5. Loss of 2 Tree Preservation Order (TPO) trees;
6. Unsuitable bridleway next to the Wolverhampton Road (A449);
7. Unacceptable impact on highways;
8. Unacceptable general impact on environment and wildlife; and
9. Unacceptable impact on health of local population.

3.2 In the period since the decision notice was issued by the Council, the Minerals Local Plan has been adopted and the County of Hereford and Worcester Minerals Local Plan has been superseded. Reason for refusal 1 refers specifically to Policy 2 of the superseded Local Plan. No policy within the adopted Minerals Local Plan provides consistency with Policy 2, and as such reason 1 is not defended by the Council within the appeal.

3.3 Having regard to the extant Development Plan and material considerations, Officers concluded that the proposal would not have detrimental impact on the local economy. The Council will therefore not be defending reason for refusal 4 (*"unacceptable impact on the local economy"*) within the appeal.

3.4 Officers concluded that, subject to the implementation of appropriate planning conditions, the loss of no.2 TPO trees would be sufficiently mitigated for. The Council will therefore not be defending reason for refusal 5 (*"Loss of 2 Tree Preservation Order (TPO) trees"*) within the appeal.

3.5 Officers concluded that, on balance, the proposal would not offer harm to the quality of bridleways located within and adjacent to the site. The Council will therefore not be defending reason for refusal 6 (*"unsuitable bridleway next to the Wolverhampton Road (A449)"*) within the appeal.

- 3.6 Both Officers and Worcestershire County Council Highways Authority concluded that, subject to the implementation of appropriate planning conditions, the proposal would not offer harm to the highways network. The Council will therefore not be defending reason for refusal 7 (*“unacceptable impact on highways”*) within the appeal.
- 3.7 Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on environment and wildlife. Having regard to the extant Development Plan and material considerations, the Council will not be defending reason for refusal 8 (*“unacceptable general impact on environment and wildlife”*) within the appeal.
- 3.8 Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on the health of the local population. The Council will therefore not be defending reason for refusal 9 (*“unacceptable impact on health of local population”*) within the appeal.
- 3.9 Having regard to the extant Development Plan and material considerations, the Council will be defending reasons for refusal 2 (*“unacceptable impact on openness of the Green Belt”*) and 3 (*“unacceptable impact on residential amenity and local schools”*) within the appeal.
- 3.10 The Council’s intention to defend reasons for refusal 2 and 3 in evidence is agreed with the appellant and captured within the Statement of Common Ground.

#### 4.0 The County Council's Case: Green Belt

4.1 Policy WCS 13 of the adopted Worcestershire Waste Core Strategy permits waste management facilities in areas designated as Green Belt where the proposal does not constitute inappropriate development, or where very special circumstances exist.

4.2 Minerals Local Plan Policy MLP 27 states that:

a) minerals extraction will be supported where *“a level of technical assessment appropriate to the proposed development demonstrates that, throughout its lifetime, the mineral extraction and/or engineering operations will:*

- *preserve the openness of the Green Belt; and*
- *not conflict with the purposes of including land within the Green Belt”*

b) *“Where any aspect of the proposed development is inappropriate\* in the Green Belt - including mineral extraction and/or engineering operations that cannot satisfy the tests in part (a) above - it will only be supported where a level of technical assessment demonstrates that very special circumstances exist that mean the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.*

\*Inappropriateness set by Paras 147-151 of NPPF.

4.3 Wyre Forest Policy DM.22 states that development in the Green Belt will not permitted except with very special circumstances (VSC) unless one of parts a) to g) apply to development; where part g) details: *“Other operations, including changes of use which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it”.*

4.4 Paragraph 147 of the Framework identifies that *“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.*

4.5 At paragraph 148 of the Framework, very special circumstances are defined, stating that *“when considering any planning application, local planning authorities should ensure that substantial weight*

*is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations".*

- 4.6 The Council's evidence will demonstrate that there is consistency between the Development Plan and the Framework, in expecting development to preserve the openness of the Green Belt and to not conflict with its purposes. Inappropriate development requires identification of very special circumstances to outweigh such Green Belt harm, and any other harm resulting from the proposal.
- 4.7 At paragraph 150 of the Framework it is noted at part a) that *"mineral extraction also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it"*.
- 4.8 The Council will refer to *Timmins*<sup>1</sup>, *Turner*<sup>2</sup> and *Samuel Smith*<sup>3</sup> in evidence, and will demonstrate that the proposed development does not preserve the openness of the Green Belt and conflicts with two of the purposes of including land within it.
- 4.9 Paragraph 138 of the Framework identifies the five purposes of the Green Belt; the Council will demonstrate in evidence that impact on openness is such that development conflicts with purposes a) (*"unrestricted sprawl"*) and c) (*"encroachment"*) of the five purposes.
- 4.10 The appeal site is located within North West Worcestershire *"Strategic Corridor"* for solid sand and gravel and silica reserves as identified within the Minerals Local Plan. Whilst all of the Corridor is located within the West Midlands Green Belt, this does not mean that it is all of equal importance of it.
- 4.11 The Council will demonstrate in evidence the differing contributions land parcels within the Corridor make to the Green Belt, referring to Wyre Forest Local Plan Examination documents including Green Belt reviews Parts I and II (Appendices WCC1 and WCC2). The Corridor area consists of 26 different land areas that are considered to provide differing and distinct contributions to the Green Belt.
- 4.12 The appeal site sits in its entirety within land parcel N7; the adjacent Lea Castle Village development sits within land parcel NE2, and land south of the site off Wolverley Road sits within parcels N5 and N6. The land parcels are concluded to provide different levels of success in their contributions towards the

---

<sup>1</sup> *Timmins v. Gedling BC* [2014] EWHC 654 (Admin)

<sup>2</sup> *Turner v. SSCLG* [2016] EWCA (CIV 466)

<sup>3</sup> *Samuel Smith R (on the application of Samuel Smith Old Brewery [Tadcaster] and others (Respondents) V North Yorkshire County Council (Appellant)* [2020] UKSC3)



purposes of the Green Belt.

- 4.13 The appeal site is defined as directly contributing to the prevention of both the incremental encroachment of development into the open countryside and to the sprawl of Kidderminster along the A449. The site sits at its narrowest within a 1.3km gap between the settlements of Kidderminster and Cookley, and the Council will demonstrate that the site provides protection against merging between the settlements, whilst also protecting against sprawl from viewpoints into Kidderminster from the A449 into the north of town. The Council will demonstrate in evidence that the development would also cause unavoidable visual coalescence between the two villages of Cookley and Wolverley.
- 4.14 The site as such provides a strong and direct contribution towards parts a) and c) of Paragraph 138. The Council will demonstrate in evidence that the site provides a greater contribution to these purposes of the Green Belt than other land parcels within its locality.
- 4.15 Wyre Forest District Council granted planning consent for the redevelopment of the former Lea Castle Hospital site for major mixed use development and have subsequently allocated the remaining land within Green Belt land parcel NE2 for additional mixed used development within Local Plan Policy SP.LCV1 (WCC4-WCC9). The council conclude that this permission and allocation heightens the functional requirements of the appeal site to protect the Green Belt from encroachment and sprawl.
- 4.16 Given the heightened responsibilities of the appeal site, the Council will demonstrate in evidence that it is more sensitive to visual and spatial impacts on the openness of the Green Belt than other land parcels within the same Corridor.
- 4.17 The Council will demonstrate in evidence that both the “Site for initial works” and Phases 4 & 5 of proposed operations will offer detrimental visual impact on various viewpoints into the site and in the approach towards Kidderminster respectively. Due to the sites sensitivity in contributing to the purposes of the Green Belt, this is concluded to provide a heightened impact of harm; a position Wyre Forest District Council agreed with in consultation.
- 4.18 The predominant mitigation measure for identified visual impact is the use of screening bunds. The Council will demonstrate in evidence that the use of sizeable bunds restricts views of the working operations of the site, thus providing effective landscape mitigation, but in cutting off any open views across the site, provides harm in terms of the visual dimension of openness of the Green Belt and a spatial impact by way of their siting.

- 4.19 Such mitigation is also used to restrict operational viewpoints from public rights of way and is concluded to provide harm to the current visual amenity of users enjoying the visual openness of this Green Belt land.
- 4.20 The proposed restoration produces a changed landform and planting scheme that creates more distinct visual screening and some of the planting is used for continuous screening mitigation for later phases of operations. The Council will demonstrate in evidence that the restoration does not restore the visual aspects of openness that the site currently provides.
- 4.21 Whilst the proposal is considered to be temporary in nature; temporary is not defined in planning terms. The Council conclude that it must take into consideration the impact on the purposes of the Green Belt across the period it relates to. A 10 or 11 year development period is proposed, the same period within which the adjacent parcel of Green Belt land is expected to be substantially developed out at Lea Castle Village. In this instance, the Council will demonstrate that being of a temporary nature is not mitigation, and that the proposed operational period is a heightened period of development for which the appeal site is required to take on a greater role in its contribution towards five purposes of the Green Belt, rather than be subject to development itself.
- 4.22 The Council will demonstrate in evidence that the development has a detrimental spatial and visual impact on the openness of the Green Belt across the lifespan of the development, heightened by the cumulative impact of adjacent Green Belt development in that period.
- 4.23 The proposed development therefore insufficiently preserves the openness of the Green Belt so as to be defined as appropriate development in Framework terms. The impact on openness is such that development conflicts with purposes a) and c) of the five purposes of Green Belt land.
- 4.24 The Council conclude that the proposal is therefore defined as inappropriate development in Development Plan and Framework terms, and must provide Very Special Circumstances outweigh this harm, and any other harm.
- 4.25 The Council determines the proposal would offer a reduced impact on visual openness when restored following development, by comparison to the existing site. The Council conclude therefore that the restoration plan does not offer beneficial weight in Green Belt terms.

- 4.26 The proposed mitigation sought to be implemented in development through planning conditions are considered acceptable to protect biodiversity and meet policy requirements with regards net biodiversity gain. As such, the Council conclude that biodiversity proposals for the site sit in *neutral* balance.
- 4.27 The Council conclude that the delivery of 11 FTE jobs is a modest contribution to the socio-economy, and as such prescribe *modest beneficial weight* to it.
- 4.28 The provision of sand and gravel from the site provides a substantial contribution towards the landbank reserves of Worcestershire County Council. However, the landbank position has substantially improved since the original decision due to other planning consents being granted in the interim period. The Council are due to publish an updated Landbank Position Statement which is expected to demonstrate an improved landbank position.
- 4.29 In now having an up-to-date Minerals Local Plan and an improved landbank position, the Council will demonstrate in evidence that the beneficial weight afforded to the delivery of minerals extraction on site can be reflective of this. Whilst the benefits in this regard should be afforded *significant beneficial weight*, this is a step down from *very significant* weight that could otherwise be afforded to the provision in differing circumstances.
- 4.30 In accordance with Paragraph 148 of the Framework, *substantial weight* is given to the harm to Green Belt openness the development would provide and with regard to its inappropriateness.
- 4.31 Furthermore, the development provides other harm of significance outlined within this statement, including harm to the amenity of residential dwellings and a local school.
- 4.32 On balance, the Council will demonstrate in evidence that there are collectively insufficient material benefits provided by the proposal to be defined as providing any very special circumstances sufficient to outweigh the collective harm the development provides.
- 4.33 It is concluded that the proposal is contrary to policy MLP 27 of the Minerals Local Plan, policy WCS 13 of the Waste Core Strategy, policy DM.22 of the Wyre Forest District Local Plan and relevant chapters of the Framework.

## 5.0 The County Council's Case: Impact on Amenity

- 5.1 Minerals Local Plan Policy MLP 28 identifies that development should “*not give rise to unacceptable adverse effects on amenity or health and well-being*” and that a “*level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime and taking into account the cumulative effects of multiple impacts from the site and/or a number of sites in the locality*”, the proposed development will not cause unacceptable harm.
- 5.2 Waste Core Strategy Policy WCS 14 states that development should “*not have unacceptable adverse impacts on amenity*” and that “*cumulative effects must be considered*”. The policy notes that details of any mitigation or compensation proposals must be included and “*where there will be unacceptable adverse impacts on amenity, proposals will only be permitted where it is demonstrated that the benefits of the development at the proposed site clearly outweigh any unacceptable adverse impacts*”.
- 5.3 Paragraph 185 of the Framework requires new development to consider the likely effects, including cumulative effects, of pollution on health, living conditions and the natural environment. Paragraph 186 states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants accounting for “*the cumulative impacts from individual sites in local areas*”.
- 5.4 With regards Minerals development, Framework paragraph 210 part f) requires policy to “*set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality*”.
- 5.5 In determining applications, the Framework states at paragraph 211 part b) that there is a requirement to “*ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality*” and at part c) to “*ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties*”.
- 5.6 The appellants include a Noise Assessment within their planning submission; this identified a calculated daytime operations noise impact that sat just below recommended limits, in isolation, for a

number of dwellings and receptors including Broom Cottage, South Lodges and Heathfield Knoll School.

- 5.7 The identified noise impact is proposed to be mitigated by use of bunds. The Council will demonstrate in evidence that in siting bunds adjacent to residential properties, some up to 6m high, a detrimental impact to the visual outlook of impacted properties occurs as a result.
- 5.8 The Council will demonstrate in evidence that irrespective of the proposed mitigation measures, the noise impact of development offers cumulative harm to the amenity of receptors within the locality of the site, and that the additional mitigation recommended to be implemented by Worcestershire Regulatory Services, including a restriction to working hours, is effective only in isolation. The noise environment concluded to provide "*the occasional identifiable noise being heard from use of machinery associated with the extraction*" in combination with other environmental impacts, will be demonstrated as offering cumulative harm to amenity.
- 5.9 The dust impacts of the proposed operations are assessed within a Dust Impact Assessment prepared by Vibrock in September 2019 and addressed in the appellants Environmental Statement. The Impact Assessment was not updated across the determination period.
- 5.10 The Council will demonstrate in evidence, that the technical assessment and subsequent additional information provided by the appellants did not adequately consider the impact of dust on air quality in conjunction with the permitted and allocated development at Lea Castle Village. The appellants provided a position within the application period that determined the impact of development dust emissions were too far away from the permitted Lea Castle Hospital development (at 570m distance from the nearest phase of work) to offer any impact. However the Lea Castle Village Masterplan was allocated under Wyre Forest District Local Plan Policy SP.LCV1 in April 2022 and identifies development adjacent to the A449 within 250m of Phases 4 and 5 of development (the Lea Castle "Village Centre"), as such considered by the Council to be within a potential area of impact.
- 5.11 Regulation 4 (2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 states that the EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on a number of factors this includes the interaction between the factors of population and human health, biodiversity, land, soil, water, air and climate, material assets, cultural heritage and the landscape. Schedule 4, Part 5 states in relation to information for inclusion within Environmental Statements, this includes "*the*

*cumulation of effects with other existing and / or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources".*

- 5.12 Cumulative Impact was considered within the appellants Environmental Statement, and within an updated Non-Technical Summary during the application. The appellants conclude that the proposed minerals works could satisfactorily co-exist with the permitted and allocated development at Lea Castle Village without offering any cumulative harm. However, no further technical or cumulative assessment on dust or air quality was undertaken to draw this conclusion; the appellants remain reliant on their Vibrook Air Quality Assessment of 2019 and it does not consider cumulative impact. Furthermore, no revised cumulative assessment on the impacts of combined noise effects with the Lea Castle Village allocation has been undertaken to draw this conclusion.
- 5.13 The Council will demonstrate in evidence therefore that the existing review of air quality and dust impact therefore has failed to satisfactorily consider either the impact on an allocated development, secured within the Wyre Forest District Local Plan, or the combined impact of such developments being located within 250m of each other on the area as a whole.
- 5.14 The Council will demonstrate in evidence that the existing review of noise impacts have failed to satisfactorily consider either the impact on an allocated development, secured within the Wyre Forest District Local Plan, or the combined impact of such developments being located within 250m of each other on the area as a whole.
- 5.15 In drawing these conclusions, the Council will agree in part with the objection raised by Wyre Forest District Council to the application, due to the direct *"adverse impact on existing and future residential dwellings, both in close proximity and further from the site, impacting on their amenity, through adverse noise, dust and vibrations. It would also impact on the wider community reducing the ability to enjoy recreational routes and outdoor space"*.
- 5.16 The Council will demonstrate in evidence that the potential affected area associated with combined impacts for cumulative effects includes a substantial provision of existing and proposed residential dwellings, community and commercial facilities. This includes a number of residential dwellings for which an amenity impact has already been identified in isolation, including "The Bungalow", "Castle Burns" and "North Lodges" and other dwellings and buildings for which exacerbated cumulative impact is expected to be provided.

- 5.17 Heathfield Knoll School and First Steps Day Nursery are located approximately 15 metres south of the application site, and approximately 80 metres at its closest point to the proposed mineral extraction; the appellants dust assessment concludes that subject to the implementation of mitigation measures, including the use of a bund, the proposal would offer no measurable impact of significance on the school and nursery with regards air quality and dust emission, despite the site sitting within close proximity to development.
- 5.18 The appellants noise assessment identifies the school as one of the sites sitting closest to daytime noise limits of general working operations of the proposed development and mitigation to secure this relies on the implementation of a bund. The school can be expected therefore to be subject to, in isolation, a noise environment concluded by the Worcestershire Regulatory Services to be of *“occasional identifiable noise being heard from use of machinery associated with the extraction”*.
- 5.19 The combined noise, air and dusts impacts on the school and nursery are concluded by the appellant to be within acceptable ranges, subject to the implementation of mitigation, and Worcestershire Regulatory Services considers the mitigation plan *“strong enough”*.
- 5.20 The Council will demonstrate in evidence that no assessment is provided to determine whether the mitigation plan is *“strong enough”* when a cumulative impact of the development in combination with Lea Castle Village is assessed. The appellant relies solely on the conclusion that the developments can work in harmony, as the minerals works are temporary.
- 5.21 The Council will conclude in this instance, that a 10-11 year temporary period is not mitigation, it is a heightened period of development within a concentrated area for which sufficient assessment of impact needs to be quantified.
- 5.22 The Council will demonstrate in evidence, that in the absence of sufficient evidence to determine otherwise and against an appropriate assessment of cumulative impacts, the appeal site in combination with permitted and allocated development adjacent to the site is determined to be harmful to the amenity of existing and proposed receptors, including residential dwellings and local community facilities including Heathfield Knoll School and First Steps Nursery.

5.23 In the absence of such information, it is concluded that the proposal is contrary to policies MLP 28, MLP 29 and MLP 30 of the Minerals Local Plan, policy WCS 14 of the Waste Core Strategy, policies SP.16 and SP.33 of the Wyre Forest District Local Plan and the Framework.



## 6.0 Planning Balance and Conclusions

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 require that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.2 The proposal is concluded to be inappropriate development within the Green Belt.
- 6.3 The proposal is concluded on balance to offer cumulative harm to the amenity of residential dwellings and to buildings in the local community, specifically Heathfield Knoll School and First Steps Nursery.
- 6.4 The Development Plan requires the identification of very special circumstances, a singular or collective provision of beneficial material considerations, that clearly outweigh Green Belt harm and any other harm identified by the development.
- 6.5 The proposal contributes to the Council's Sand and Gravel Landbank position, which currently sits below 7 years. This is defined in assessment of Green Belt harm as being a *significant benefit* in favour of development, but not a very significant one.
- 6.6 The council determines the proposal would offer a reduced impact on visual openness when restored following development by comparison to the existing site. The restoration proposal does not offer a material benefit of weight but sits in neutral balance.
- 6.7 Any secured net biodiversity gain delivered on site is an expectation of policy, rather than a benefit, and sits in neutral balance.
- 6.8 The delivery of 11 FTE jobs is a modest contribution, and as such is prescribed *modest beneficial weight*.
- 6.9 The collective benefits of the proposal are not sufficient so as to outweigh the substantial harm provided to the Green Belt and other harm, as a result of development.
- 6.10 For these reasons, the Council conclude that the appeal should be dismissed.