

Town and Country Planning Act 1990 – Section 78 Town and County Planning (Development Management Procedure) (England) Order 2015 Town and Country Planning (Inquiries Procedure) (England) Rules 2002

Appeal by NRS Aggregates Limited

Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire

Against the refusal of planning permission by Worcestershire County Council for application 19/000053/CM - Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement.

REVISED STATEMENT OF COMMON GROUND between:
NRS Aggregates Limited & Worcestershire County Council

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

February2023

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1. Introduction

1.1 This is a Statement of Common Ground (SoCG) made between the following parties:

- NRS Aggregates Limited (“the Appellant”); and
- Worcestershire County Council (“the Council”).

1.2 This SoCG has been jointly prepared by the Appellant and Council, and sets out the factual background to the Appeal and those matters on which the parties agree. It also sets out the residual matters upon which the parties are not agreed.

1.3 This SoCG has been updated since the original signed submission of 24th January 2023; accounting for the additional submissions raised by the Appellant with regard to ecology, noise and cumulative impact as requested by the Environmental Services Department of the Planning Inspectorate under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

2. The Appeal Proposals

- 2.1 The Appellant seeks full 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 (Planning Application Reference: 19/000053/CM).
- 2.2 The proposed development is for sand and gravel extraction together with progressive restoration over approximately 26 hectares of land at Lea Castle Farm from two distinct areas – western and eastern areas. The western area measures approximately 12.5 hectares and the eastern area measures approximately 13.5 hectares, although the full extent of the red line application boundary is about 46 hectares.
- 2.3 Vehicular access to the application site would be via a proposed new access and internal haul road onto the Wolverley Road (B4189) in the south-eastern area of the site. This access would provide direct access to Wolverhampton Road (A449) towards Kidderminster and Stourbridge.
- 2.4 The Appeal proposal makes provision for the initial work to establish a new temporary access onto the B4189 Wolverley Road and Plant Site and subsequent phased extraction of sand and gravel and solid sand and its distribution. Extraction will be with concurrent with restoration of extracted areas utilising both in situ site soils and overburden and imported inert materials.
- 2.5 A total of circa 3 million saleable tonnes of sand and gravel will be extracted across an initial works period and five subsequent phases over the course of approximately 10 years. The mineral comprising circa 1.57 million tonnes of sand and gravel and 1.43 million tonnes of solid sand. The mineral will be transported to the plant site for processing utilising both dump trucks and a conveyor system. This scheme has been designed based on an annual processed tonnage of 300,000 saleable tonnes. This will provide a source of mineral to supply the building and construction industries with aggregates for products such as building sand, mortar sand, drainage materials and concreting sand and gravel supplying local and midland markets.
- 2.6 The plant site is proposed to comprise the following:
- The processing plant;
 - Office and weighbridge and wheel wash;
 - Stocks of product;

- 2 cylinders for a silt management/water cleansing system; and
 - Staff and visitor car parking.
- 2.7 The footprint of the operational processing plant site area would measure approximately 3.8 hectares and would be located about 7 metres below existing ground levels (plant site located at approximately 63.5 metres Above Ordnance Datum (AOD) and existing ground level at approximately 70.5 metres AOD, and surrounded by a soil storage / visual screening bund, which would measure approximately 3 metres high to the south and north and between 4 to 5 metres to the west, with higher ground to the east (up to approximately 80 metres AOD). An overburden bund (overburden is unsaleable materials such as clay or unsaleable silty sand that lies above the mineral) would be located within the north of the processing plant site area measuring approximately 6 metres high.
- 2.8 The phased extraction of all mineral would take place above the natural water table. The development will also include the restoration and enhancement of the site/local landscape setting and green infrastructure. A new agricultural parkland will be designed with the provision of an agricultural parkland, provision of approximately 2.3km of new routes of public footpaths, cycleways, bridleways and pocket parks. Native woodland blocks will be re-established to reflect previous social historic land uses, hedges will be strengthened, and new acidic species rich meadow grassland will be created.
- 2.9 To aid in this process c. 60,000 m³ of inert material will be imported onto site per annum, c. 600,000 m³ in total, to help create restoration formation levels onto which the original site soil profile will be placed. The Western Area of the site is proposed to be fully restored within 5 years of extraction commencing, with the Eastern Area restoration being fully completed within one year after the cessation of mineral extraction.
- 2.10 Land Aftercare and Management agreements will be established to ensure the restoration/enhancement measures are financially sustainable and permanent

Appeal Documents

- 2.11 The planning application was submitted to the Council in January 2020.
- 2.12 The following documents were submitted to the Council in support of the planning application:
- Planning Statement (PS) (**CD1.02**);
 - ES Volume 1 - Environmental Statement (ES) (**CD1.03**);

- ES Volume 2 – Technical Appendices (**CD1.04-1.16**);
 - Landscape and Visual Impact Assessment;
 - Ecological Impact Assessment;
 - Tree Condition Survey;
 - Noise Assessment;
 - Air Quality and Dust Assessment;
 - Transport Statement;
 - Agricultural Land Classification and Soil Resource Report;
 - Archaeological Desk Based Assessment;
 - Written Scheme of Investigation;
 - Hydrological and Hydrogeological Impact Assessment;
 - Leisure and Recreation Report; and,
 - Health Impact Assessment.

- ES Volume 3 – Planning Application Drawings and Forms (**CD1.17 – 1.32**); and
 - Location Plan KD.LCF.001;
 - Application Boundary / Other land in control of the applicant KD.LCF.014;
 - Current Situation KD.LCF.002;
 - Proposals Plan KD.LCF.013;
 - Operational Land KD.LCF.011;
 - Plant Site Layout – Plan & Elevations KD.LCF.021;
 - Plant Site – Conveyor running beneath PROW 62 6(B) KD.LCF.022;
 - Initial Works KD.LCF.003;
 - Phase 1 Working & Restoration KD.LCF.004;

- Phase 2 Working & Restoration KD.LCF.005;
 - Phase 3 Working & Restoration KD.LCF.006;
 - Phase 4 Working & Restoration KD.LCF.007;
 - Phase 5 Working & Restoration KD.LCF.008;
 - Concept Restoration KD.LCF.010; and,
 - Restoration Sections KD.LCF.028.
- Non - Technical Summary. (CD1.33)

2.13 A Regulation 25 Request was made in June 2020 and additional information and clarification was provided on the following elements of the scheme (**CD3.02 to 3.23**):

- Water Environment;
- Biodiversity: Designated Sites;
- Biodiversity: Ancient Woodland, and Ancient and Veteran Trees;
- Biodiversity: Protected Species;
- Biodiversity: Restoration Scheme;
- Landscape;
- Best and Most Versatile Land and Soils;
- Aftercare;
- Materials for Restoration;
- Historic Environment;
- Highways;
- Public Rights of Way;
- Site Security; and,
- Drawings.

2.14 A second Regulation 25 Request was made in June 2021, seeking further clarification to points regarding comments from the County Landscape Officer, Hereford and Worcester Gardens Trust, Wyre Forest District Council's Tree Officer and the British Horse Society (**CD5.02 – 5.28**).

2.15 A third and final Regulation 25 Request was made in January 2022 (requesting the submission of a Habitats Regulations Assessment (**CD8.02 to 8.09**)).

Consultees

2.16 The Committee Report (**CD10.01**) details that technical matters were resolved to the satisfaction of the following consultees on the application, subject to the addition of conditions and/or obligations where appropriate:

- 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 Hill District Footpath Society;
- Sustrans;
- Canal and River 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.

2.17 The following consultees maintained objections to the application following the provision of further information under Regulation 25:

- Wolverley and Cookley Parish Council;
- Kidderminster Town Council.
- Wyre Forest District Council Planning Department;
- Wyre Forest District Council Tree Officer;
- The Campaign to Protect Rural Environment (CPRE).

2.18 The British Horse Society raised no objections to the proposal, subject to all footpaths within the site being upgraded to public bridleways, the legal status and maintenance responsibility

for the proposed additional routes is confirmed, and the surface and dimension standards on the upgraded and additional routes are as required for public bridleways. Their objection related to the removal of the originally proposed upgrade of footpath WC-623 to a public bridleway. They stated that they were not objecting to the proposed quarry development but considered that the originally proposed upgrade to footpath WC-623 was a key element of their initial discussions with the applicant because it would deliver the benefit to riders of an access point on the western side of the site via Lea Lane. The proposed upgrade was revised following advice from the Council's public rights of way team.

- 2.19 2,030 letters of representation were received during the application period, some of which are from the same respondents, and includes comments from a local residents' action group (Stop The Quarry Action Group), Wyre Forest Friends of the Earth, Kidderminster Civic Society and Civic Voice, Hagley Parish Council, Hurcott Village Management Ltd, Nightingales Residential Home, Wolverley CE Secondary School, Cookley Sebright Primary School, Heathfield Knoll School and First Steps Day Nursery, Severn Academies Educational Trust, National Education Union (NEU), neighbouring District Councillors Mary Rayner and Sarah Rook, and Bromsgrove District Councillor Steve Colella were received; 2 of which were letters of support, 4 of which are comments and 2,024 of which are objections.

3. Description of Appeal Site and Environs

- 3.1 The following site description is taken from paragraphs 84 and 85 of the Committee Report. A full detailed site location can be found in the Planning Statement (**CD1.02**), Environmental Statement (**CD1.03**) and Committee Report (**CD10.01**).
- 3.2 The application site measures approximately 46 hectares in area and is primarily comprised of agricultural land (farmed for a variety of crop including potatoes, maize, barley and sugar beet), 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.
- 3.3 The application site is located immediately to the north of the Wolverley Road (B4189), immediately to the west of the Wolverhampton Road (A449), and approximately 40 metres east of a residential estate road of Brown Westhead Park (U13246).
- 3.4 The following description of development is taken from paragraphs 939 to 942 of the Committee Report.
- 3.5 The proposed development is seeking to extract approximately 3 million tonnes of sand and gravel from approximately 26 hectares (although the full extent of the red line application boundary is about 46 hectares) on land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster. Extraction would take place at a rate of approximately 300,000 tonnes of sand and gravel per annum. The depth of extraction would vary as the base of the mineral deposit undulates but is anticipated to be typically between about 5 to 7 metres in the western area and about 7 to 12 metres in the eastern area, with a maximum depth of 18 metres. The site is proposed to be worked dry, above the water table, with no de-watering proposed. It is estimated that the site would be exhausted of mineral and restored within 11 years of the commencement of the development.
- 3.6 The land would be progressively restored using site derived and imported inert material to agricultural parkland, public access and nature enhancement. The land would be worked in a total of 6 phases (Initial Works, Phases 1, 2, 3, 4 and 5), beginning by working and setting up the processing plant site in the centre of the site, then commencing extraction in the western area working north to south, crossing over to the eastern area working south to north.
- 3.7 To restore the site the applicant is proposing to import approximately 600,000 cubic metres of inert material (equating to about 1,020,000 tonnes), importing approximately 60,000 cubic metre of inert material per annum (equating to about 102,000 tonnes per annum). Inert

materials include uncontaminated or treated subsoils, clays, overburden, as well as construction, demolition and excavation waste such as, but not limited to concrete, bricks, tiles, and ceramics that will not undergo any physical, chemical or biological transformations of significance and will not give rise to environmental pollution or risk harm to human health as a result of coming into contact with other matter.

- 3.8 The proposed restoration scheme includes the creation of a new agricultural parkland, providing approximately 2.7 kilometres of new public bridleways and permissive bridleways and 5 pocket parks. Native woodland blocks would be re-established to reflect previous historic land uses (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439 metres of hedgerows would be strengthened, approximately 579 metres of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees reinstating the historic avenue of trees along bridleways WC-625 and WC-626.

4. Reasons for Refusal

4.1 With regard to the Appeal Proposal, the decision notice issued by Worcestershire County Council on 27th May 2022 (**CD10.02**) states the reasons for refusal as follows:

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.”.*

5. Development Plan

5.1 Section 38(6) Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.

Local Policy

5.2 The Planning and Compulsory Purchase Act 2004 defines the Development Plan as the Development Plan documents (taken as a whole) which have been adopted or approved in relation to that area.

5.3 The relevant statutory Development Plan for the appeal comprises:

- The Worcestershire Minerals Local Plan (adopted July 2022) (**CD11.03**);
- Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012) (**CD11.04**); and
- Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022) (**CD11.05**).

5.4 It is noted that Reason for Refusal 1 relates to Policy 2 of the County of Hereford and Worcester Minerals Local Plan (Adopted April 1997), however, since the adoption of the Minerals Local Plan in July 2022, this Policy is now superseded and therefore, is no longer of relevance to the appeal proposal.

5.5 The following policies are considered relevant to the Appeal:

- The Worcestershire Minerals Local Plan (adopted July 2022):
 - Policy MLP 1: Spatial Strategy;
 - Policy MLP 3: Strategic Location of Development – Areas of Search and Windfall Sites Within the Strategic Corridors;
 - Policy MLP 7: Green Infrastructure;
 - Policy MLP 11: North West Worcestershire Strategic Corridor;
 - Policy MLP 14: Scale of Sand and Gravel Provision;
 - Policy MLP 15: Delivering Steady and Adequate Supply of Sand and Gravel;
 - Policy MLP 26: Efficient Use of Resources;

- Policy MLP 27: Green Belt;
- Policy MLP 28: Amenity;
- Policy MLP 29: Air Quality;
- Policy MLP 30: Access and Recreation;
- Policy MLP 31: Biodiversity;
- Policy MLP 32: Historic Environment;
- Policy MLP 33: Landscape;
- Policy MLP 34: Soils;
- Policy MLP 35: Best and Most Versatile Agricultural Land;
- Policy MLP 36: Geodiversity;
- Policy MLP 37: Water Quality and Quantity;
- Policy MLP 38: Flooding;
- Policy MLP 39: Transport; and
- Policy MLP 40: Planning Obligations.

5.6 The Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012):

- Policy WCS 1: Presumption in favour of sustainable development;
- Policy WCS 2: Enabling Waste Management Capacity;
- Policy WCS 5: Landfill and disposal;
- Policy WCS 6: Compatible land uses;
- Policy WCS 8: Site infrastructure and access;
- Policy WCS 9: Environmental assets;
- Policy WCS 10: Flood risk and water resources;
- Policy WCS 11: Sustainable design and operation of facilities;
- Policy WCS 12: Local characteristics;
- Policy WCS 13: Green Belt;

- Policy WCS 14: Amenity; and
- Policy WCS 15: Social and economic benefits.
- Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022):
 - Policy SP.2 - Locating New Development;
 - Policy SP.6 - Role of the existing villages and rural areas;
 - Policy SP.7 - Strategic Green Belt Review;
 - Policy SP.16 - Health and Wellbeing;
 - Policy SP.20 - Quality Design and Local Distinctiveness
 - Policy SP.21 - Historic Environment;
 - Policy SP.22 - Landscape Character;
 - Policy SP.23 - Protecting and Enhancing Biodiversity;
 - Policy SP.24 - Protecting and Enhancing Geodiversity;
 - Policy SP.27 - Transport and Accessibility in Wyre Forest;
 - Policy SP.28 - Green Infrastructure;
 - Policy SP.29 - Water Conservation and Efficiency;
 - Policy SP.30 - Sewerage Systems and Water Quality;
 - Policy SP.31 - Flood Risk Management;
 - Policy SP.32 - Sustainable Drainage Systems (SuDS);
 - Policy SP.33 - Pollution and Land Instability;
 - Policy SP.34 - Minerals;
 - Policy SP.35 - Waste;
 - Policy SP.37 - Renewable and Low Carbon Energy;
 - Policy DM.10 - Rural Employment;
 - Policy DM.22 - Safeguarding the Green Belt;
 - Policy DM.23 - Safeguarding the Historic Environment;
 - Policy DM.24 - Quality Design and Local Distinctiveness;

- Policy DM.26 - Landscaping and Boundary Treatment;
- Policy DM.28 - Wyre Forest Waterways; and
- Policy DM.32 - Agricultural Land Quality.

Other Material Considerations

- 5.7 Worcestershire Local Aggregates Assessment Data covering the period up to 31/12/2021 (January 2023) (**CD11.06**)
- 5.8 National Planning Policy Framework (NPPF)
- The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied, and is a material consideration in the determination of this Appeal. Of particular relevance to this Appeal are the following Sections of the NPPF:
 - Achieving sustainable development;
 - Building a strong, competitive economy;
 - Promoting sustainable transport;
 - Protecting Green Belt land;
 - Conserving and Enhancing the Natural Environment; and
 - Facilitating the sustainable use of minerals.
- 5.9 National Planning Policy for Waste (NPPW) (2014).
- 5.10 National Planning Practice Guidance (PPG).
- 5.11 Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Minerals Dust. Impacts for Planning' (2016).
- 5.12 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

6. Planning History

- 6.1 Historically, the site formed a part of the c.220ha grounds of Lea Castle, which was built around 1762 and was demolished in 1945.
- 6.2 Planning permission was granted at Lea Castle Farm in May 1997 (WFDC ref. WF/0648/96) for the conversion of barns into eight dwellings, the erection of garages, construction of driveways, parking areas and new sewage treatment plant along with alterations to the existing access. In July 2001 planning permission was granted (WFDC ref. WF/0437/01) for the change of use of barns to 11 dwellings with the associated erection of garages, construction of hardstandings and new access drive. The permission was implemented and the dwellings are known as Castle Barns.
- 6.3 A planning application for the construction of two golf courses at Lea Castle Farm was first submitted to WFDC in March 1999. The application included the proposed construction of one 18-hole and one 9-hole golf courses, the erection of a clubhouse with ancillary facilities, the construction of a new vehicular access onto Castle Road, new driveways and parking facilities, a golf practice area, and the diversion of a public footpath. The application (WFDC ref. WF/0260/99) was refused at Planning Committee on 14th March 2000 and a subsequent appeal was withdrawn. However, an application (WFDC ref. WF/0211/01) was permitted by Committee on 17th July 2001 for 'construction of two new golf courses (18 hole and 9 hole), new clubhouse and ancillary facilities, new access to Castle Road, Cookley, new driveways and parking facilities, golf practice area and diversion of public footpaths'.
- 6.4 The planning permission for the construction of golf courses at the application site was not implemented. The July 2001 permission (WF/0437/01) remains the most recent significant permission issued for the application site.
- 6.5 In terms of mineral development, the site was promoted within the Third Stage Consultation of the now adopted Worcestershire Minerals Local Plan (14th July 2022). The site was assessed and considered appropriate to be allocated 'Preferred Area Status' under the title of Land North of Wolverley Road (submission reference DO26-2397). Although the Third Stage Consultation on the Minerals Local Plan included "specific site" and "preferred area" site allocations, this approach was not carried forward in the Fourth Stage or the Publication Version stage. The emerging Worcestershire Mineral Site Allocations DPD is likely to be go out for public consultation in Summer 2023.

7. Matters on which parties agree

7.1 The following matters are agreed between the parties:

Need and Landbank

7.2 It is agreed that Worcestershire currently does not hold a sufficient landbank of minimum seven years as required by paragraph 213 of the NPPF (**CD 11.01**). At the time of preparation of the Committee Report, the planning officer consulted the LAA published in June 2020, covering up to the period of 31st December 2017. The Planning Officer then used annual sales figures to estimate what the landbank would be at the end of December 2020, achieving a figure of 3.06 years.

7.3 The Local Aggregate Assessment (LAA) (published January 2023) covers the period up to 31 December 2021. The annual production guideline for sand gravel identified by the LAA (January 2023) is calculated as 0.827 million tonnes. Based on this production guideline and the stock of permitted reserves of approximately 3.42 million tonnes of sand and gravel, Worcestershire had a landbank of approximately 4.14 years on 31 December 2021.

7.4 Since 31 December 2021, the MPA granted planning permission the following sites:

- Western portion of the former) Sandy Lane Quarry, Wildmoor - Proposed importation of inert restoration material and extraction of approximately 245,000 tonnes of sand to enable engineering operations for stability purposes and completion of site restoration. Granted planning permission on 8 July 2022 (MPA Ref: 21/000029/CM, Minute No. 1102 refers). This increased the landbank by approximately 0.3 years
- Ryall North Quarry, Land off Ryall's Court Lane, Ryall, Upton-upon-Severn – Proposed extraction of approximately 475,000 tonnes of aggregates with restoration to agriculture and lake suitable for water sports. Granted planning permission on 27 October 2022 (MPA Refs: 20/000009/CM and 20/000015/CM, Minute Nos. 1107 and 1108 refers). This increased the landbank by approximately 0.57 years
- Bow Farm Quarry, Bow Lane, Ripple – Proposed extraction of approximately 1.44 million tonnes of sand and gravel with restoration using site derived and imported inert material to wetland, nature conservation and agriculture. Granted planning permission on 8 November 2022 (MPA Ref: 19/000048/CM, Minute No. 1115 refers). This increased the landbank by approximately 1.74 years.

7.5 Taking the above planning permissions into account and assuming production guideline for sand and gravel set out in the LAA (0.827 million tonnes) continued in 2022, then the

landbank of permitted reserves on 31 December 2022 would be approximately 4.75 million tonnes of sand and gravel, equating to about 5.74 years.

7.6 It is agreed that the Appeal site would contribute to a “balanced geographical spread of mineral reserves and provide an additional mineral site, contributing to a steady and adequate supply of mineral (sand and gravel) and adding to resilience to the mineral (sand and gravel) supply in Worcestershire, which is currently provided by a limited number of active sites” (Paragraph 379 of Committee Report).

7.7 As stated at paragraph 380 of the Committee Report, it is accepted that the Appeal Proposal is consistent with paragraph 213 (f) of the NPPF as it would contribute to the Mineral Planning Authorities landbank for sand and gravel. Therefore, this is a matter which is not in dispute as part of the Appeal.

Sustainability

7.8 When looking at the supply of mineral within a county a balanced spread of geographical location supply sources is very important in promoting sustainable development. Aggregates being bulky in nature, costly to transport / typically only transported about 30 miles from source. The closest county sand and gravel quarry to Kidderminster is Clifton Quarry, located circa. 24 miles away. It is agreed that the Appeal Proposal would help provide a balanced geographical spread of mineral supply sources.

7.9 Several permitted and proposed large-scale residential schemes are located within proximity of the Appeal Site. Large quantities of inert waste would arise from these large-scale schemes and the potential transport to and use of this material in the restoration scheme, aligns with the ethos of achieving sustainable development.

Ecology

7.10 It is agreed that a suite of ecological protection and enhancement works were submitted as part of the planning application. Natural England, Worcestershire Wildlife Trust and the County Ecologist had no objections to the proposal put forward subject to appropriately worded conditions.

7.11 As such, save for conditions, the parties agree that impact on ecology is not a matter in dispute between the Appellant and the MPA.

Noise

7.12 It is agreed that a Noise Impact Assessment (**CD1.07**) was submitted in support of the planning application. Worcestershire Regulatory Services, the statutory consultees with

regard to noise impacts, were satisfied that the Noise report confirms conditions to be within national guidance relating to noise and that the measured noise levels calculated were robust in isolation. Worcestershire Regulatory Services are satisfied that there are no adverse noise impacts associated with the proposed workings in isolation.

Landscape and Visual

- 7.13 It is agreed that a Landscape and Visual Impact Assessment (**CD1.04**) was submitted as part of the planning application. The County Landscape Officer has no objections to the proposal, subject to appropriate conditions requiring the implementation of a CEMP and LEMP, with a long-term aftercare period to cover a period of at least 10 years. Hereford & Worcester Gardens Trust also hold no objection to the proposed development; and the Head of Planning and Transport Planning concurred, on balance, with the findings of the LVIA.

Soils and Agricultural Land

- 7.14 It is agreed that an Agricultural Land Classification and Soil Resource Report (**CD1.10**) was submitted in support of the planning application, Natural England were consulted and raised no objection to the proposal in this regard. Furthermore, the Head of Planning and Transport Planning considers that subject to appropriate conditions being imposed relating to soil handling and placement, and a detailed aftercare scheme, then the objectives of the NPPF in respect of soils and their use in the restoration of BMV agricultural land would be met.
- 7.15 As such, save for conditions, the parties agree that this is not a matter in dispute between the Appellant and the MPA.

Archaeology and Cultural Heritage

- 7.16 It is agreed that a programme of archaeological work was submitted in support of this application. Historic England offered no comment other than to consult the County Conservation and Archaeologists. The County Archaeologist and the Wyre Forest District Council Conservation Officer has no objection to the proposal subject to conditions for a programme of archaeological work, including a Written Scheme of Investigation, provision made for analysis, publication and dissemination of results and archive deposition, and a scheme for the reinstatement of the historic boundary wall. Hereford & Worcester Earth Heritage Trust also do no object to the proposals.
- 7.17 As such, the parties agree that save for conditions, this is not a matter in dispute between the Appellant and the MPA.

Water Environment

- 7.18 Natural England have no objection to the proposal subject to the imposition of conditions regarding groundwater monitoring scheme and maintenance of the proposed soakaways in perpetuity. The North Worcestershire Water Management also raise no objection to the proposal subject to the imposition of conditions requiring a detailed surface water drainage scheme and associated maintenance scheme. The Environment Agency recommend the imposition of a condition requiring groundwater, surface water and quality monitoring scheme. Severn Trent Water Limited have no objection subject to condition requiring groundwater monitoring as requested by the Environment Agency.

As such, save for conditions, the parties agree that this is not a matter in dispute between the Appellant and the MPA.

Restoration

- 7.19 It is agreed that a Concept Restoration Plan (**CD5.11**) was submitted in support of the planning application.

Net Gain for Biodiversity

- 7.20 It is agreed that the submitted Restoration Plan and scheme outlined within the Environmental Statement (**CD1.03**) provides a Biodiversity Net Gain of approximately 39.1% (**CD14.05**) against the Metric 3.1 Baseline as calculated within the additional assessment provided under Regulation 25 in January 2023. The restoration was calculated as providing 87.21% Biodiversity Net Gain against the Metric 2.0 Baseline within the original assessment informing the Environmental Statement (**CD5.08**).

Climate Change

- 7.21 It is agreed that Climate Change impacts have been considered within the Environmental Statement (**CD1.03**), particularly in terms of hydrology, flood risk and ecology. The County Sustainability Officer was consulted but offered no comments on the proposal.

Alternatives

- 7.22 It is agreed that the approach taken to alternatives within the planning application is acceptable. Although the CPRE objected to the planning application, suggesting alternative mineral extraction sites, the Head of Planning and Transport Planning did not consider this an exceptional case where alternative schemes are relevant, particularly as there can be no confidence that an alternative scheme is a realistic prospect. Furthermore, the Head of Planning and Transport Planning notes the support of Policy MLP 1 which seeks to direct

mineral extraction within 'Strategic Corridors'; and Policy MLP 3 concerning the strategic location of development within 'Areas of Search', for both of which Lea Castle Farm is sited.

Cumulative Impacts

- 7.23 It is agreed that Cumulative Impacts have been considered as part of the planning application within the Environmental Statement (**CD1.03**).
- 7.24 It is agreed that the additional Cumulative Impact Assessment, prepared by the Appellant under the Regulation 25 request in February 2023, has provided sufficient information to determine that the proposal, in combination with other development, would not cause amenity harm with regard to noise or dust impacts to residential dwellings or Heathfield Knoll School and First Steps Nursery, subject to the implementation of proposed mitigation measures.

8. Matters on which parties disagree and are to be defended by Council

8.1 With reference to reason for refusal 2: Green Belt, the parties disagree on the following matters:

- The spatial and visual impact of the development on the openness of the Green Belt.
- The cumulative impact of the development in conjunction with adjacent development at Lea Castle Village as secured by consent 17/0205/OUTL and Wyre Forest Local Plan Policy SP.LCV1 on the purposes of the appeal site as Green Belt land across the lifespan of development.
- The appropriateness of the development in Framework terms and the requirement for consideration of very special circumstances taking into consideration Framework paragraphs 147, 148 and 150.
- The conflict of development with purpose a) unrestricted sprawl and c) encroachment of the Green Belt as defined by paragraph 138 of the Framework.
- The weight provided to individual material considerations sought to be considered in balance; including the weight prescribed to the contribution of the site to minerals supply, the economic benefits from job creation, biodiversity net gain benefit and the benefit applied to the restoration scheme.
- The developments accordance with Policy MLP 27 of the Minerals Local Plan, Policy WCS 13 of the Waste Core Strategy, Policy DM.22 of the Wyre Forest District Council Local Plan and relevant chapters of the Framework.

8.2 With reference to reason for refusal 3: impact on residential amenity and schools, the parties disagree on the following matters:

- The impact on visual outlook of residential properties by the proposed siting of bunds. However, in isolation, having since addressed cumulative impacts, and due to the limited timeframes of the siting of the bunds, such impact is not determined to be sufficiently harmful as to maintain the defence of reason for refusal 3.

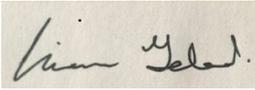
9. Reasons for refusal to not be defended by the Council within the Inquiry

- In the period since the decision notice was issued by the Council, the Worcestershire 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 for refusal 1 is not defended by the Council within the appeal.
- 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.
- Officers concluded that, subject to the implementation of appropriate planning conditions, the loss of 2 No. 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.
- 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.
- 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.
- Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on the 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.
- 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.

- Having regard to the additional technical evidence prepared by the Appellant under the Regulation 25 request of January 2023, the Council conclude that the Appellant has provided sufficient information to determine that the proposal, in combination with other development, would not provide cause harm with regard to noise or dust impacts to residential dwellings or Heathfield Knoll School and First Steps Nursery, subject to the implementation of proposed mitigation measures. The Council will therefore now not be defending reason for refusal 3 (*“Unacceptable impact on residential amenity and local schools”*) within the appeal.

10. Planning Conditions

- 10.1 The parties agree that should the appeal be allowed, and planning permission be granted the conditions referenced in the Committee Report (**CD10.01**) should be imposed subject to minor amendments and an amendment to the restoration scheme condition (referenced as condition 62 in the Committee Report), and an additional condition seeking to protect the TPO trees T9 and T10 in the western area of the site (see separate Schedule of Conditions):

Signed on behalf of Minerals Planning Authority		Signed on behalf of Appellant	
Organisation	Worcestershire County Council	Organisation	Heatons
Signature		Signature	
Name	Rachel Hill	Name	Liam Toland
Qualification	BEng (Hons)	Qualification	BA (Hons), MSc, MRTPI
Date	15/02/2023	Date	14/02/2023