



PLANNING APPEAL REF: APP/E1855/W/22/3310099

**LEA CASTLE FARM, WOLVERLEY ROAD, BROADWATERS, KIDDERMINSTER,
WORCESTERSHIRE**

**RESPONSE TO THE REQUEST FOR ADDITIONAL INFORMATION MADE UNDER
REGULATION 25 OF THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL
IMPACT ASSESSMENT) REGULATIONS TO PROVIDE FURTHER INFORMATION**

FEBRUARY 2023



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Appendices

Appendix A – Ecological Addendum Report and Biodiversity Net Gain Assessment

Appendix B – Noise Technical Note

Appendix C – Cumulative Impact Assessment

Appendix D – Revised Non-Technical Summary

1 Background and Purpose of the Report

1.1.1 On 31st October 2022, Heatons submitted a Planning Appeal (Ref: APP/E1855/W/22/3310099) on behalf of NRS Aggregates Ltd (the Appellant) relating to the refusal of Worcestershire County Council (WCC) of Planning Application reference 19/000053/CM for a 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. The Appeal commenced on 07th November 2022.

1.1.2 On 13th January 2023, the Environmental Services Department of the Planning Inspectorate requested further information under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. According to the request, the appellant is required to supply the following further information:

- A statement providing commentary on the biodiversity future baseline scenario and confirming that the current baseline data remains representative based on walkover survey data **Reason:** The latest biodiversity survey data is from April 2019 and maybe unrepresentative of the current baseline.
- A statement providing commentary on the likely future baseline scenario for noise and confirming why the current baseline data remains representative or the provision of updated survey data. **Reason:** The latest noise survey data is from July 2018 and maybe unrepresentative of the current baseline and the assessment also lacks consideration of the future baseline position; and
- A revised non-technical summary (NTS) incorporating all of the elements referred to above.

1.1.3 Further to the above requested information, as part of this submission, the Appellant has also given consideration of the impact of the proposed development on allocated development within the Wyre Forest District Local Plan, with this set out in a revised Cumulative Impact Assessment.

2 Ecology

2.1 Additional Information Request

A statement providing commentary on the biodiversity future baseline scenario and confirming that the current baseline data remains representative based on walkover survey data Reason: The latest biodiversity survey data is from April 2019 and maybe unrepresentative of the current baseline.

2.2 Response

- 2.2.1 An Ecology Addendum report has been prepared in response to the Regulation 25 Request and is appended to this report at **Appendix A**. An updated biodiversity net gain assessment has also been undertaken utilising the latest Biodiversity Metric (Defra Biodiversity Metric 3.1) and is also attached at **Appendix A**.
- 2.2.2 This attached addendum demonstrates (via presentation of updated habitat type and condition assessment), that the conclusions detailed within the previous 2019 Ecological Impact Assessment remain both accurate and robust.
- 2.2.3 The site remains materially unchanged in importance since previous assessments and is likely to support the same species assemblages and populations as previously determined.
- 2.2.4 The proposed mitigation and enhancement measures continue to be deemed appropriate for the likely scale of ecological impacts and the delivery of significant Biodiversity Net Gain has been re-tested and reaffirmed, despite the usage of a more precautionary metric.
- 2.2.5 The significant net gains in biodiversity units (shown to be possible as part of this development) exceed the current requirements set out in both national policy (i.e., NPPF 2021) as well as the future legal minimum of 10% net gain, as detailed in the assented (but not yet enforced) Environment Act 2019.

3 Noise

3.1 Additional Information Request

A statement providing commentary on the likely future baseline scenario for noise and confirming why the current baseline data remains representative or the provision of updated survey data. Reason: The latest noise survey data is from July 2018 and maybe

unrepresentative of the current baseline and the assessment also lacks consideration of the future baseline position

3.2 Response

- 3.2.1 In terms of Noise, WBM have a Technical Note in response to the Regulation 25 request and is attached at **Appendix B**.
- 3.2.2 The Technical Note provides commentary on the likely future baseline scenario for noise and confirms that the 2018 background noise levels should indicate a reasonable worst case for the assessment of the quarry development.
- 3.2.3 Information is also provided on the validity of the 2018 measured data with regard to road traffic noise and indicates negligible change.
- 3.2.4 Updated noise survey data is also provided, the results of which confirm that the measured background noise levels in 2023 are similar to or higher than the 2018 results at all locations. The suggested noise limits set out in the noise assessment for Lea Castle Farm are therefore a 'worst case', resulting in more stringent / conservative noise limits than would be suggested if based on 2023 survey data.

4 Cumulative Impact Assessment

- 4.1.1 As set out above, the Appellant has given consideration of the impact of the proposed development on recently permitted along with allocated development within the Wyre Forest District Local Plan, with this set out in a revised Cumulative Impact Assessment at **Appendix C**.
- 4.1.2 A Cumulative Impact Assessment was carried out as part of the original application and formed part of the Environmental Statement at Chapter 22. The Environmental Statement concluded that there are no cumulative impacts that would arise from the scheme in combination either within itself or with other existing / proposed developments that would render the proposed quarry extension unacceptable.
- 4.1.3 These findings were accepted by Worcestershire County Council's Head of Strategic Infrastructure and Economy, with paragraph 871 of the Committee Report setting out the following:

"On balance, the Head of Planning and Transport Planning does not consider that the cumulative impact of the proposed development would be such that it would warrant a reason for refusal of the application".

- 4.1.4 Cumulative Impact was not set out by members of the Planning and Regulatory Committee as a reason for refusal.
- 4.1.5 The approach to assessing cumulative impact has followed the advice of Mr Justice Burton (in the Long Moor case - *The Queen (on the application of Leicestershire County Council) v. the Secretary of State for Communities and Local Government and UK Coal Mining Ltd (2007) EWHC Admin 1427*) by considering the three categories of potential cumulative effects: successive effects; simultaneous effects from concurrent developments; and combined effects from the same development and then sets out reasoning behind the judgements reached.
- 4.1.6 The assessment of cumulative impact has had regard to positive and negative effects to ensure that an overall balanced judgement is reached. The potential positive impacts are particularly relevant when considering the combined effects from the same development. Care has been taken to ensure that any positive effects have not been double counted in the assessment work.
- 4.1.7 The assessment of successive effects has concluded that no significant adverse cumulative impact would occur from the proposed extension to the Lea Castle Farm site.
- 4.1.8 In terms of the assessment of simultaneous effects, the potential combined effect of the development of the planning application to the east of the site (application ref: 22/0404/OUT) being constructed at the same time as the proposed extension area is only likely to marginally increase the degree of overall impact. No objectionable concurrent effects are therefore likely to arise.
- 4.1.9 In terms of the combined effects, the only individual negative environmental impact that is considered to come close to the thresholds of being objectionable is the potential temporary landscape and visual impact of the scheme. The other environmental features are not considered to make a substantial contribution to cumulative harm. Given that only one feature is close to the thresholds of objectionability, and having regard to the fact that none of the environmental features have a synergistic effect, their combined impact is not objectionable. This conclusion has been reached having regard to the four tests recommended by Mr Justice Burton.
- 4.1.10 The proposal would have a number of positive effects which act as a counter weight to offset the identified negative impacts. The main points in relation to the benefits are that the proposal would meet a need for sand and gravel and bring about economic benefits and biodiversity gains.
- 4.1.11 In the light of the above it is concluded that the cumulative impact of the scheme does not weigh against the scheme to a degree that the Planning Inspector should form a

cumulative reason to object to the proposal. In reaching this view particular regard has been given to the temporary nature of the development and the short, medium and long term benefits that would arise.

5 Non-Technical Summary

5.1.1 A revised Non-Technical Summary is attached at **Appendix D**.

6 Publication of Updated Information

6.1.1 The Further Information contained in this statement and all Appendices will be provided electronically to the Planning Inspectorate, Worcestershire County Council (WCC) and Rule 6 Party.

6.1.2 It has been discussed with WCC, that the information will be made available on the Council's website. Members of the public may inspect electronic copies of the Further Information online on WCC's Planning website: www.worcestershire.gov.uk/eplanning using application reference: 19/000053/CM (when searching by application reference, please ensure that the full application reference number, including the suffix are entered into the search field).

6.1.3 A Press Notice has also been placed in the local newspaper, the Kidderminster Shuttle on 2nd February 2023 notifying the public of the Further Information, where the information can be viewed, and how to comment on the Further Information, as required by Regulation 25 of the EIA Regulations 2017.

6.1.4 Site Notices have been placed at the Appeal Site notifying of the submission of Further Information and where it is available to view.

6.1.5 Copies of the Further Information can also be obtained from Heatons, The Arc, 6 Mallard Way, Pride Park, Derby, DE24 8GX, consultants@heatonplanning.co.uk at a cost of £100.00 for a paper copy, or on a CD at a cost of £10.00.