

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

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Summary Proof of Evidence of Christopher Whitehouse BSc (Hons)
MRICS, RICS Accredited Expert Witness

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1.0 Introduction

- 1.1 My proof of evidence focuses on Planning and Green Belt issues. Whilst the additional minerals reserves would contribute to the sand and gravel landbank of Worcestershire County Council (“WCC”); I am concerned about the effects of the proposal on the Green Belt and on the amenity of adjacent receptors.
- 1.2 My evidence concludes that the appeal proposal reduces openness and is in conflict with Green Belt purposes. I conclude that the proposal is inappropriate development and is not supported by very special circumstances. In terms of paragraphs 147 and 150 of the National Planning Policy Framework (“NPPF”) I conclude that the case “tips the balance”.
- 1.3 As a consequence of seeking to mitigate for landscape, noise and dust impacts, I consider that the proposal would offer significant harm to the amenity of residential dwellings for periods of time during the operational works. I also consider that due to insufficient evidence to determine otherwise, it has not been demonstrated that the proposal would not offer a cumulative amenity impact on both residential receptors and Heathfield Knoll School & First Steps Nursery (“The School”) in combination with other development. The proposal fails to accord with MLP 28 of the Minerals Local Plan, policy WCS 14 of the Waste Core Strategy and policies SP.16 and SP.33 of the Wyre Forest District Local Plan and the Framework.

2.0 Minerals Supply

- 2.1 The latest Local Aggregate Assessment was published by WCC in January 2023. It is concluded that when taking into account planning permissions granted at the sites Bow Farm, Ryall North and Sandy Lane, the WCC estimated landbank for sand and gravel reserves is 5.74 years as of December 2022. This is a substantial improvement of the landbank in comparison to the 4.14 years estimation of December 2021 but still short of the 7 years as required by policy MLP 14.
- 2.2 The approval of the appeal scheme would increase the landbank by 3.63 years and as such exceed the requirements of MLP 14. However, it is also noted that the grant of permission for sites to be determined by the WCC this year would also increase the landbank to in excess of 7 years.

3.0 Green Belt Issues

- 3.1 To be appropriate development in the Green Belt, it is not a prerequisite that openness is maintained. Mineral extraction may not be inappropriate as long as it preserves openness in accordance with paragraph 150 of the NPPF. It therefore comes down to the specific details of the proposals; determining the “tipping point” beyond minerals excavation that would preserve openness and not conflict with the purposes of including land within the Green Belt, depends on the particular circumstances of the proposal as a matter of fact and degree.
- 3.2 The site consists of open and undeveloped Green Belt land. It is located approximately 330m north of the settlement boundary for the town of Kidderminster, approximately 680 metres and 850 metres east of the villages of Wolverley and Fairfield, respectively, and approximately 350m south of the village of Cookley.
- 3.3 The appeal site directly contributes to the prevention of both the incremental encroachment of development into the open countryside and to the sprawl of Kidderminster along the A449; as such having heightened purposes in relation to two of the five purposes of Green Belt land.
- 3.4 The inclusion of a substantial number of bunds to mitigate for the effects of the proposal on the landscape and visual impact of the area is concluded, as a by-product, to create a change to the sense of openness on receptors (for both residential and recreational uses and/or road users) due to their extent and size; cutting off open views across the site.
- 3.5 The development is considered to offer a very significant detrimental effect on visual openness from western and southern viewpoints of the site during Phases 1, 2 and 3 of the works, from north-western viewpoints of the site during Phases 4 and 5 of the works, and a significant detrimental effect during the lifespan of development until the plant area is decommissioned.
- 3.6 The development is considered to offer a very significant detrimental effect on visual openness, in combination with the allocated development at Lea Castle Village, across Phases 4 and 5 of the development, from wider views of the Green Belt from the east and southeast of the site.
- 3.7 Furthermore, the siting of the bunds themselves provide engineered features at odds with the natural landscape of the site for substantial periods of time; providing a spatial impact on the openness of the Green Belt by way of their siting.

3.8 In this instance, it is considered that the substantial use of large bunds across the site for a period of 10 years would, in combination with development adjacent to the site, offer an intensive impact on the Green Belt at a period in time when the site is considered to have a heightened responsibility in effectively performing its purposes as Green Belt land.

3.9 Taken in context the overall effect of the development is of significant harm to the Green Belt by loss of openness.

4.0 Amenity Issues

4.1 The technical reporting identifies that, in isolation, the proposed works would have an impact on a number of residential dwellings, most notably at Castle Barns and the Bungalow, with regard to noise and dust, sufficient to require mitigation measures. These measures include the erection of sizeable screening bunds.

4.2 It is not contested that the bunds provide sufficiently robust mitigation to alleviate noise and dust impacts to inside acceptable thresholds. However, in relation to Castle Barns and the Bungalow, the bunds themselves are considered to offer measurable harm to outlook and overbearing impacts of significance to the properties across the lifespan of the erection of the bunds. It is concluded therefore that the proposed development, in isolation, provides a significant impact on amenity on residential receptors for periods of time during operational works on site.

4.3 Insufficient information has been provided in relation to cumulative impacts to determine whether this amenity impact to residential receptors is exacerbated by the intended developing out of the Lea Castle Village site across the same operational period.

4.4 Furthermore, insufficient information has been provided in relation to cumulative impacts to determine whether the intended developing out of the Lea Castle Village site across the same operational period offers any further cumulative impact on The School, sufficient so as to create a harmful impact on amenity.

5.0 Absence of Very Special Circumstances (VSC)

5.1 From their Statement of Case it is the Appellant's opinion that VSC exist from:

- The need for the release of new mineral reserves to ensure a “steady and adequate supply of aggregates” and that great weight that is attached to mineral extraction;
- The contribution of the scheme to the WCC landbank, which is currently not in compliance with NPPF paragraph 213;
- The sustainability of the location with regard to the logistical marketplace, the spread of supply throughout the County and the potential inert waste that could be transported to site from surrounding residential development sites;
- The economic benefit of providing jobs, providing direct and indirect economic contributions to the local economy and to the economy through levy and taxation; and
- Restoration benefits from the site, including a significant increase in net biodiversity gain.

5.2 Minerals excavation should be given great weight; and the proposal would contribute to the WCC Sand and Gravel Landbank position, which currently sits below 7 years. Due to the improving landbank and there being a reasonable expectation that the shortfall of it will be addressed, the benefit applied to the consideration is concluding to be substantial, not very substantial.

5.3 Whilst the geographical spread of resources is a benefit, there is not an acute issue for location of supply as a proportion of the landbank available. As such, moderate weight is applied to the consideration. There is neither a confirmed agreement in place with an inert waste supplier from surrounding residential development sites that informs this appeal, nor is there confirmation that any development in the surrounding area has a need to export inert waste from their sites. As such, negligible weight is afforded to the matter.

5.4 Employment provision and other operational aspects of the development would make a moderate but nonetheless significant contribution to the economy. The scheme would have some substantial benefits for biodiversity in the long term, subject to a number of high risk aspects of the restoration scheme being successful delivered across the long term; the risks of which limit the benefits to moderate in planning balance. The restoration of the site following completion of the minerals excavation is a requirement of policy rather than a direct benefit secured by the proposal. As such, negligible weight is applied to the delivery of a restored site.

5.5 I have concluded that the proposal is inappropriate development. Furthermore, the proposal would not assist in checking sprawl or safeguarding the countryside from encroachment, and so would conflict with two of the purposes in the Green Belt and be contrary to policies MLP 16 of the

Worcestershire Minerals Local Plan and DM.22 of the Wyre Forest Local Plan. This harm to the Green Belt should, by definition, be given substantial weight.

5.6 I consider that the proposal is contrary to policies MLP 28 Worcestershire Minerals Local Plan and WCS 14 of the Waste Core Strategy, in offering substantial harm to receptor amenity.

5.7 I therefore conclude that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, and the very special circumstances necessary to justify the development do not exist.

6.0 Conclusion

6.1 I consider that the harm to the Green Belt along with the harm to amenity in the area is not clearly outweighed by the benefits of mineral extraction, along with the contribution the appeal scheme would make to employment provision, the economy and biodiversity. I consider that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, and the very special circumstances necessary to justify the development do not exist. I find that the appeal scheme would be contrary to national Green Belt policy set out in the NPPF.

6.2 I therefore conclude that the Inspector should be invited to dismiss the appeal.