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 Ltd

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"

Appeal Ref. APP/E1855/W/22/3310099

Proof of Evidence of Liam Toland BA

(Hons) MSc, MRTPI – Planning

January 2023

Heatons
Planning Environment Design

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APPENDICES

1 Introduction and Background to Appeal

1.1 Personal Details

1.1.1 My name is Liam Toland. I hold a Bachelor of Arts degree in History and Geography having graduated in 2003 and a MSc in Regional and Urban Planning having graduated in 2006. I am a Member of the Royal Town Planning Institute (MRTPI) since 2008. I have over sixteen years' experience in planning obtained through employment in the private consultancy sector.

1.1.2 From June 2013 to September 2022, I was employed by Heatons, being promoted to Planning Director in 2021. My work with Heatons has predominantly been in connection with the minerals and waste sectors, preparing planning applications and project managing EIAs for a range of developments including new and extensions to quarries covering a wide range of mineral types.

1.1.3 Since October 2022, I have set up my own company Liam Toland Planning, predominantly providing planning services to the minerals and waste sector. As such, I have good experience in the issues that are relevant to this Inquiry.

1.1.4 I have been involved in the application prior to its submission to WCC on 14 January 2020. I prepared the planning application and Environmental Statement and was involved through the determination period. I have visited the Appeal Site and the surroundings on several occasions and have examined the relevant plans and documents for the purpose of this Inquiry. I shall be giving general planning evidence covering various issues relating to National and local planning policy, and in particular the Green Belt and need considerations of the Appeal.

1.2 The Appeal Site and Surroundings

1.2.1 This is described in section 3 of the Statement of Common Ground (SoCG).

1.3 Planning History Relevant to the Appeal

1.3.1 The planning history of the appeal site is described in section 6 of the SoCG.

1.4 Timeline of Application Determination

1.4.1 I set out below a chronology of the Appeal proposal from submission through to determination of the planning application:

- Scoping Opinion Request – 30 April 2018
    - Scoping Opinion – 29th June 2018
- Registration of Application – 14th January 2020
- 1st Regulation 25 Request – 5th June 2020
    - Regulation 25 Response – 26th October 2020
- 2nd Regulation 25 Request – 14th June 2021
    - Regulation 25 Submission – 16 July 2021
- 3rd Regulation 25 Request – 27 January 2022
    - Regulation 25 Submission – 2nd March 2022
- Committee Meeting – 24th May 2022
- Decision – 27th May 2022
- Appeal Submission – 31st October 2022
- Appeal Start – 7th November 2022
- Regulation 25 Request (PINS) – 27 January 2022

1.5 Planning Policies relevant to the Appeal

1.5.1 The relevant development plan policies can be found within the SoCG in Section 5.

1.6 Reasons for Refusal

1.6.1 The decision notice issued by WCC on 27th May 2022 (CD10.02) refused the application 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.*"

1.6.2 As set out in section 9 of the SoCG, in the period since the decision notice was issued by the Council, in narrowing down the matters for consideration at Appeal, the Council have confirmed that they will be only be defending / providing evidence on the following refusal reasons at the inquiry:

- Unacceptable impact on openness of the Green Belt; and
- 3. Unacceptable impact on residential amenity and local schools.

1.6.3 The full reasoning for discarding each of the other 7 reasons is set out in section 9 of the SoCG.

1.7 Declaration

1.7.1 I can confirm that the evidence which I have prepared and provide for this appeal reference APP/E1855/W/22/3310099 in this Proof of Evidence to be true, and that the opinions I have expressed represent my true and complete professional opinion, and complies with the RTPI Code of Professional Conduct.

2 Planning Policy and the Committee Report

2.1 Introduction

2.1.1 In this Section I consider the Officer's Report (CD10.01) to the Planning and Regulatory Committee in relation to relevant planning policies and the planning balance reached.

2.2 Planning Policy

2.2.1 To avoid unnecessary duplication, I assume that the reader has read the committee report (CD10.01). I also assume that the reader has read the Planning Statement (CD1.02) submitted with the planning application, particularly sections 4 and 5 on Planning Policy, Need and Green Belt Considerations. Together, the officer's report and the Planning Statement comprise a detailed evaluation of relevant planning policy at the national and local level along with setting out the factors that contribute towards the planning balance.

2.3 Committee Report

2.3.1 In arriving at the recommendation for approval, the Planning Officer identified 16 key issues to be considered in determining whether the application is acceptable, namely:

- Worcestershire's landbank of sand and gravel reserves;
- Whether the proposal meets the site selection criteria set out in the adopted County of Hereford and Worcester Minerals Local Plan (Sieve Test / Methodology);
- Best and Most Versatile (BMV) agricultural land;
- Alternatives;
- Green Belt;
- Traffic, highway safety and impact upon public rights of way;
- Residential amenity (including noise, odour, dust, air quality, vibration, lighting and health impacts);
- Landscape character and appearance of the local area;

- Historic environment;
- Ecology, biodiversity and geodiversity,
- Water environment;
- Restoration and aftercare of the site;
- Economic impact;
- Climate Change;
- Cumulative effects; and
- Prematurity.

2.3.2 The report set out a detailed consideration of each aspect, which led to a balanced consideration and recommendation for approval. A summary of officers' findings relating to the key planning issues is set out in Appendix 1.

2.3.3 I do not believe that the issues in this case are novel or difficult. They are standard, straightforward issues that are capable of being easily understood by both planning officers and elected members. Indeed, as set out in Appendix 1, WCC's professional officers showed commendable understanding of these basic elements of the planning system and advised members correctly. If that advice had been followed, then this appeal would have been unnecessary.

3 Scope of my evidence

3.1.1 My Proof of Evidence covers planning policy relating to minerals, whether or not the development constitutes appropriate development in the Green Belt, mineral and waste need and the very special circumstances (VSC) relating to the Green Belt.

3.1.2 The following elements are considered:

- Green Belt Considerations (Section 4);
- The need for Sand and Gravel (Section 5);
- The need for inert waste disposal (section 6);
- Impact on Residential Amenity and Local Schools (Section 7);
- Cumulative Impact Assessment (Section 8);
- Comments on Issues Raised by Rule 6 Parties and Other Interested Parties (Section 9);
- Very Special Circumstances Considerations (Section 10) to include the following;
    - The need for the proposed development with particular regard to the landbank position for sand and gravel;
    - Environmental and sustainability benefits;
    - Development, Growth and Economic Considerations; and
    - Restoration and biodiversity benefits.
- Planning Balance and Conclusions (Section 11).

3.1.3 In preparing my evidence I have also had regard to the evidence provided by:

- Mr Neil Furber on landscape and visual matters;
- Ms Katrina Hawkins on dust and air quality;
- Ms Rachel Canham on noise;
- Mr Jeremy Hurlstone on highways; and
- Ms Justine Walsh on ecology.

4 Green Belt

4.1 Introduction

4.1.1 From both the Development Plan and from the NPPF, I consider that Green Belt policy is an important policy for the determination of the appeal. In the Minerals Local Plan, the Waste Core Strategy and the NPPF, minerals extraction is cited as not inappropriate development in the Green Belt. Paragraph 150 of the NPPF qualifies the exception by reference to openness and purposes. It is also clear in policy MLP 27 of the Minerals Local Plan and policy WCS13: Green Belt of the Worcestershire Waste Core Strategy mineral extraction is only appropriate development if it preserves openness and does not undermine Green Belt purposes. I therefore consider that the policy starting point is that minerals extraction is appropriate development in the Green Belt.

4.1.2 It is however necessary to consider (because of the terms of paragraph 150 NPPF) whether the effects of the proposal on openness and Green Belt purposes are such as to make the whole development inappropriate development.

4.1.3 If, as result of these considerations (effects on purposes and/or openness), the proposal is found to be inappropriate development, then consideration must be given to the Very Special Circumstances (VSC) test in paragraph 148 NPPF.

4.2 Planning Policy Context

4.2.1 The Appeal Site is located wholly within the West Midlands Green Belt. NPPF paragraph 137 declares that the *"fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence"*.

4.2.2 Paragraph 138 refers to the *"five purposes"* served by the Green Belt:

i. first, *"to check the unrestricted sprawl of large built-up areas"*;

ii. second, *"to prevent neighbouring towns merging into one another"*;

iii. third, *"to assist in safeguarding the countryside from encroachment"*;

iv. fourth, *"to preserve the setting and special character of historic towns''*: and

v. fifth, *"to assist in urban regeneration, by encouraging the recycling of derelict and other urban land"*.

4.2.3 The Appellant accepts that great importance is attached to the Green Belt, noting the fundamental aim is to prevent urban sprawl by keeping land permanently open. It is also accepted that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in VSC, where 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. Notwithstanding this, the NPPF does indicate that both mineral extraction and engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it (Paragraph 150).

4.2.4 In terms of development plan policy, policy MLP 27 of the Minerals Local Plan states at part a) that proposals within Green Belt should demonstrate through an appropriate level of technical assessment that they will preserve the openness of Green Belt, and not conflict with the purpose of including land within Green Belt. At part b), it states that *"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."*

4.2.5 Policy WCS13: Green Belt of the Worcestershire Waste Core Strategy states that in Green Belt, waste management facilities will be permitted where the proposal does not constitute inappropriate development, or where VSC exist.

4.2.6 Policy DM.22 of the Wyre Forest District Council Local Plan states that development will not be permitted, except in VSC, or unless one of the specified circumstances applies which are listed in the policy. This includes *"other operations…which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it"*.

4.2.7 It is also worth noting that the site is located within a strategic corridor and within an area of search as set out in the adopted Minerals Local Plan. Policy MLP 3: 'Strategic

Location of development – Areas of Search and Windfall Sites within the Strategic Corridors' states that:

"a) planning permission will be granted for new mineral developments and extensions to extant sites within allocated areas of search where there is a shortfall in supply as demonstrated by Part c)".

4.2.8 Part c) of the draft policy states: *"a shortfall in supply for a broad mineral type will be considered to exist where: i) there is a shortfall in extant sites and allocated specific sites and / or preferred areas to meet the scale of provision required over the life of the plan…".*

4.2.9 The need for the development is discussed section 5 of this Proof, which demonstrates that the landbank is below the minimum of 7 years for sand and gravel, which demonstrates that there is a shortfall in supply.

4.2.10 It is considered that the proposal is in line with any typical mineral development in the Green Belt, and it is considered that this site should benefit from the exceptions that are clearly provided for in the NPPF for mineral sites. There would be impacts, but only of a temporary duration, and relatively short for mineral extraction, with an appropriate restoration programme, back to a beneficial status in the Green Belt. The NPPF clearly envisages that mineral extraction should benefit from the exemption in paragraph 150, and this proposal should benefit from those exemptions as it comes within the intended scope.

4.2.11 The assessment of WCC's Planning Team set out in the Committee Report (CD10.01) is that this is a proposal that would preserve the openness of the Green Belt and not conflict with the purposes of Green Belt. NPPF paragraph 150 is written on the premise that mineral extraction is an appropriate use in the Green Belt, and there is nothing unusual about this proposed quarry operation that is different from any other such use that it should be deemed to have an unacceptable impact on openness.

4.2.12 The Appellant's case is therefore that the proposed development, including restoration to a lower level, access, haul road, bunds, mineral processing plant, ancillary facilities and activity associated with the proposed mineral extraction when considered in isolation and in combination with other developments would not affect the openness of the Green Belt to an extent that would 'tip the balance' to make it inappropriate development.

4.3 Council's Reason for Refusal 2: Green Belt

4.3.1 With regards the Council's reason for refusal 2: Green Belt, it appears that the concern is in relation to *"an unacceptable impact on openness of the Green Belt"* as this is the only justification for the reason set out in the information section of the Decision Notice. In noting that only openness is cited in the reason, it was presumed that the Council were not claiming that the proposals conflict with the purposes of including land within the Green Belt (i.e. points (a) to (e) of NPPF Paragraph 138).

4.3.2 However, in its Statement of Case the Council now expresses the view that the Appeal development would be in conflict with the 5 purposes, in particular points a, b and c. The Council's case reiterates matters raised by Wyre Forest District Council and the CPRE. Wyre Forest District Council considered the proposal would result in coalescence between the villages of Cookley and Wolverley, whereas the CPRE also objected on these grounds but consider that the proposal would result in the coalescence between Cookley and Kidderminster. The Council's case appears to suggest that there would be potential of merging on both fronts.

4.3.3 The Council also make the case that the Appeal 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.

4.3.4 The Council considers that VSC do not exist to overcome this harm.

4.3.5 All of the above is contrary to the conclusions of Worcestershire County Council's Head of Strategic Infrastructure and Economy as set out in the Committee Report (CD10.01).

4.4 Whether or not the development constitutes appropriate development in the Green Belt

4.4.1 As discussed above, mineral development within the Green Belt can be considered to be acceptable (i.e. not inappropriate) where it is consistent with the purposes of the Green Belt and protects openness. In the following paragraphs I consider the Appeal Development in relation to Green Belt purposes and look firstly at the effect on openness before considering the scheme in the context of points a, b and c of NPPF paragraph 138.

Effect on Openness

4.4.2 As set out in paragraphs 447 of the committee report (CD10.01), there has been significant argument around the concept of openness and the extent to which it encompasses visual effects as opposed to just the physical / volumetric effect of new development. This was largely resolved by the Court of Appeal in Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466 (CD12.05), where Sales LJ said:

"The concept of 'openness of the Green Belt' is not narrowly limited to the volumetric approach suggested by [counsel]. The word 'openness' is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs … and factors relevant to the visual impact on the aspect of openness which the Green Belt presents".

Subsequently, in February 2020, the Supreme Court in R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3 generally supported the Turner decision but provided further analysis of openness: "The concept of "openness" in paragraph 90 of the NPPF [2012 version] seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: "to prevent urban sprawl by keeping land permanently open …". Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As Planning Policy Guidance 2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land", and: "[Openness] is a matter not of legal principle but of planning judgement for the planning authority or the inspector".

4.4.3 Therefore, in terms of openness, consideration is given to the physical characteristics of the site, its surroundings and the development proposed on it together with the duration of the development.

4.4.4 The Landscape and Visual Impact Assessment submitted with the application (LVIA – CD1.04) shows that the proposed development's physical geographical influence is contained within an area of land, which is physically constrained by either vegetation structure, access roads, field boundaries or landform. Its visual geographical influence given its height, scale and mass combined with its location within an undulating landform morphology is therefore limited.

4.4.5 As set out in the LVIA (CD1.04), the site contains two distinct landscape characteristics. Firstly, the enclosed Western Area and the majority of the Eastern Area is contained by a combination of landform, topography, woodland blocks and in parts a stone/brick wall. These morphological and structural elements combine to create a screened periphery surrounding a degraded inner parkland landscape and new agricultural land use and setting. The form of the character is mainly geometric with large agricultural fields bounded by straight sections of woodland and an inner linear track adjoining which are the remnants of a formal tree lined avenue.

4.4.6 The Eastern Area of the site, which due to a combination of an easterly sloping landform and reducing topography combined with a limited amount of vegetation make this area a part of a wider visual envelope with potentially a greater number of visual receptors including residents of Castle Barns, Four Winds, Broadwaters and properties off the Stourbridge Road as well as users of the local road and PROW networks located to the east of the site.

4.4.7 The majority of the outer eastern facing fields within the Appeal Site will not be disturbed. The eastern extent of Phase 4/5 would be screened behind the existing higher ground of the undisturbed part of the Appeal Site further reduced by temporary screen bunds and tree and shrub planting. The Environmental Statement (CD1.03) concluded that the maximum overall effect on visual amenity from these locations would be Slight to Minimal Adverse during the operational phase.

4.4.8 With reference to the Disturbed Land Plan (CD1.21), the area of land where mineral is being extracted at any one time within the operational phase would be less than 10

hectares. The western half of the Site (comprising Phases 1-3) and over half of the extraction footprint, would be extracted and fully restored within 5 years.

4.4.9 The plant site area for the operation would be about 3.87ha and, as such, the footprint combined with the proposed access track and surrounding bunds would be relatively small in the context of the much wider agricultural landscapes that surround it. Furthermore, the plant site is located on lower ground within the Appeal Site and is set 7m below existing levels. The Plant Site would be surrounded by temporary screen bunds up to 5m high that would be grass seeded with 1:3 outer slopes (CD1.22). The temporary plant site buildings comprising three portacabins, the mineral processing plant and ancillary development would not be visible from publicly accessible locations as they would be set down at a lower level and surrounded by screen bunds. In terms of the amount of development to be introduced, the proposal would have 6 stages, lasting 10 years in total. The largest area of disturbance of land at any one time period will be approximately 10 Ha (within Phase 4).

4.4.10 Visual mitigation and enhancement measures integrated into the development proposals include, only extracting mineral from the identified more enclosed and contained visual landscape in the eastern and central/ eastern areas of the site, placing the plant site a minimum of 7m below adjacent ground level, use of temporary soil storage/screening bund (seeded and maintained) to block potential views of quarrying activities along with agricultural straw bales, distance standoffs from residential property including the Bungalow and Castle Barns, tree and shrub planting to help both screen and integrate proposals. It is also proposed to limit the actual area of disturbed land /quarrying activities (access, extraction, plant site and restoration) through phased progressive extraction and restoration.

4.4.11 The proposed development is clearly not a large built-up area. Even if elements within the Site were to be considered temporary built development e.g. the plant site, this has a modest footprint, is largely contained below existing ground levels and is a temporary feature that would be fully restored to agricultural land. There is no physical connection between the Lea Castle mixed use development and the plant site that could be perceived by the public as there would be no physical access to the Appeal Site.

4.4.12 In terms of the duration of the development, the Appellant estimates that extraction and restoration works would be completed in 11 years, which is relatively modest in the context of mineral operations (for example Wildmoor Quarry has been operating

since the 1930s). On completion of the infilling, the ancillary site infrastructure would be uplifted and removed, with the site being restored. As set out in paragraph 455 of the committee report (CD10.01), *"there would be no permanent spatial or visual impact on the Green Belt"*.

4.4.13 Therefore, the Appellant is in agreement with that set out at paragraph 458 of the committee report (CD10.01), *"the proposed development, including restoration to a lower level, access, haul road, bunds, mineral processing plant, ancillary facilities and activity associated with the proposed mineral extraction when considered in isolation and in combination with other developments would preserve the openness of the Green Belt. It is also considered that the proposal would not conflict with the fundamental aim of Green Belt policy or the five main purposes of Green Belt. Whilst the proposal would be visible, it would not be very visible due to the topography, proposed temporary soil storage / visual screening bunds, existing historic boundary walls and proposed planting, with any views being contained to relatively few receptors. It is considered that the visual impact on openness does not make this development "inappropriate""*.

<u>To check the unrestricted sprawl of large built-up areas</u>

4.4.14 The Appellant considers that the proposals would not hinder the objective of preventing unrestricted sprawl of large built-up areas. Firstly, the site is not connected to any large built up area. Secondly, the proposed use is temporary and whilst the proposal would be located between Kidderminster, Cookley, Wolverley and the development of the former Lea Castle Hospital site (Lea Castle Village), this would be largely contained to a discrete area of the overall site and would be relatively small in the context of the much wider agricultural landscapes that surround it.

4.4.15 As set out in R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] (CD12.06), Carnwath LJ considered that *"as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land"*.

4.4.16 The proposed development would, notwithstanding its duration, be a temporary activity and whilst the proposal would disturb the site for a period of time, it would be progressively returned to an open state following completion of extraction and would be no more built up on completion of the development as it is now, as a result of the proposal.

4.4.17 The proposed development would thus not appear as an extension to Kidderminster, Cookley or Wolverley. I therefore do not consider that mineral extraction with restoration to parkland / agricultural uses constitutes unrestricted sprawl of large built-up areas.

To prevent neighbouring towns merging into one another

4.4.18 The Council state in the Statement of Case that *"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"*.

4.4.19 The proposals would not lead to neighbouring towns merging into one another. The site does not directly adjoin any town and is adequately detached from the built up area of the nearest town, Kidderminster. With regards Cookley and Wolverley, both of these are classified under "*villages, rural settlements and other rural hamlets*" in the adopted Wyre Forest Local Plan 2016 – 2036, therefore, technically are not towns.

4.4.20 As stated previously, the proposed use is temporary and whilst the proposal would be located between Kidderminster, Cookley, Wolverley and the development of the former Lea Castle Hospital site (Lea Castle Village), this would be largely contained to a discrete area of the overall site and would be relatively small in the context of the much wider agricultural landscapes that surround it. The largest area of disturbance of land at any one time period will be approximately 10 Ha (within Phase 4). Extraction and restoration works would be completed in 11 years, which is relatively modest in the context of mineral operations. On completion of the infilling, the ancillary site infrastructure would be uplifted and removed, with the site being restored.

To assist in safeguarding the countryside from encroachment

4.4.21 As discussed above, the quarry scheme is temporary and there would be phased working and restoration so the area of disturbance would be much smaller than the total site area at any one time. The changes which the proposed development will result in are reversible. Whilst there will be a permanent change to the landform

following restoration with a variation in topography, the landform has been designed to be similar to that of the local area, and it will remain open countryside.

4.4.22 Overall therefore, I consider that the Appeal Scheme proposals would not lead to any permanent encroachment of the countryside.

4.5 Conclusion

4.5.1 As set out in paragraph 461 of the committee report (CD10.01), *"it is considered that the proposal is in line with any typical mineral development in the Green Belt, and it is assessed that this site should benefit from the exceptions that are clearly provided for in the NPPF for mineral sites. There would be impacts, but only of a temporary duration, and relatively short for mineral extraction, with an appropriate restoration programme, back to a beneficial status in the Green Belt. The NPPF clearly envisages that mineral extraction should benefit from the exemption in paragraph 150, and this proposal should benefit from those exemptions as it comes within the intended scope".*

4.5.2 The proposed development would, notwithstanding its duration, be a temporary activity and whilst the proposal would disturb the site for a period of time, it would be progressively returned to an open state following completion of extraction and would be no more built up on completion of the development as a result of the proposal as it is now. In this respect, it is noted that in Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government [2013] EWHC 2643 (Admin) (CD12.07), Ouseley J noted the special status of mineral extraction under Green Belt policy. As he said:

"67. One factor which affects appropriateness, the preservation of openness and conflict with Green Belt purposes, is the duration of development and the reversibility of its effects. Those are of particular importance to the thinking which makes mineral extraction potentially appropriate in the Green Belt. Another is the fact that extraction, including exploration, can only take place where those operations achieve what is required in relation to the minerals. Minerals can only be extracted where they are found…

68. Green Belt is not harmed by such a development because the fact that the use has to take place there, and its duration and reversibility are relevant to its appropriateness and to the effect on the Green Belt …"

4.5.3 The Appellant considers that the Proposed Development does not constitute inappropriate development in the Green Belt as upon restoration the openness would be preserved and would not conflict with the purposes of including land within the designation.

4.5.4 In view of above, I consider that the exceptions for mineral extraction and engineering operations at paragraph 150 of the NPPF would apply, and the proposed development is, therefore, not inappropriate development in the Green Belt.

5 The need for Sand and Gravel

5.1 Introduction

5.1.1 NPPF paragraph 209, states *"It is essential that there is sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long term conservation"*. Paragraph 211 of the NPPF goes on to state, *"When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy"*. The NPPF at paragraph 211 indicates that great weight is to be afforded to mineral extraction, noting the contribution that the minerals sector makes to the UK economy. This is of significant note given how the NPPF describes sustainable development in paragraph 8 whereby the economic objective is to help *"build a strong, responsive and competitive economy"* and a social objective seeking to *"support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations"*. Without an adequate supply of minerals, the "homes"(as referred to under paragraph 8 of the NPPF under sustainable development) cannot be built.

5.1.2 The NPPF at paragraph 213 indicates that "minerals planning authorities should plan for a steady and adequate supply of aggregates". A key tool for doing this is the maintenance of landbanks, which for sand and gravel is 7 years.

5.1.3 There are two important points that flow from paragraph 209:

1. Minerals can only be worked where they are found as set out above in relation to the site's location in the Green Belt; and
2. A sufficient supply is essential.

5.2 Landbank/Productive Capacity Position in Worcestershire

5.2.1 The NPPF at paragraph 213 requires Mineral Planning Authorities to maintain a landbank of at least 7 years for sand and gravel.

5.2.2 With regard to sand and gravel production, as set out in the SoCG, Worcestershire currently does not hold a landbank of minimum seven years as required by paragraph

213 of the NPPF. The SoCG also states the following:

"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."

5.2.3 The Appellant accepts that the landbank position has improved since the preparation of the committee report (CD10.01), due to the granting of a number of planning permissions but is still below the required 7 years.

5.2.4 I set out below my understanding of the sites contributing to the landbank:

- Chadwich Lane Quarry
    - Planning Permission granted on 26 March 2021 (Ref: 18/000036/CM) for the extraction of 1.35 million tonnes of sand to be extracted at 100,000 tonnes per annum.
- Wildmoor Quarry
    - Site currently operates under ROMP Permission Ref: 107104 approved on 20 July 1999; and
    - Remaining in-situ mineral equates to approximately 294,250 tonnes with mineral production from Wildmoor Quarry being approximately 150,000 tonnes (Scoping Request Ref: 21/000043/SCO).
- Clifton
    - Most recent planning permission (Ref: 15/000006/CM) was granted 12 July 2016, consolidating the existing quarry and new extensions into one permission; and
    - 2.2 million saleable tonnes of sand and gravel was to be extracted over a course of about 11 years with an end date of 31 December 2030 (stated on planning permission).
- Ryall North
    - The most recent planning permission was approved on 27 October 2022 (Ref: 20/000009/CM) for a northern extension to extract 475,000 tonnes of sand and gravel;
    - The Committee report for the application sets out that mineral extraction would be likely to commence in early 2023, with mineral

extraction within the current quarry likely exhausted by the end of 2022; and

- Extraction is at a rate of approximately 300,000 tonnes per annum, therefore taking less than 2 years to complete.

- Bow Farm
  - Application reference 19/000048/CM was approved on 8 November 2022 to extract 1.44 million tonnes of sand and gravel (This site is contingent on planning permission being granted for site access and processing plant within Gloucestershire which is due to be considered by Gloucestershire County Council's planning committee on 26th January 2023); and
  - Extraction is proposed to be at a rate of 250,000 tonnes per annum, giving the site an estimated lifespan of under 6 years.

- Sandy Lane
  - Application reference 21/000029/CM, for the extraction of sand (245,000 tonnes) to enable engineering operations for stability purposes and completion of site restoration was approved on 08 July 2022; and
  - It is estimated that the 245,000 of sand will be extracted over a 3 year period.

5.2.5 As set out in the SoCG, "*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*". The Appeal development would add 3.6 years to the landbank, making it compliant with paragraph 213 of the NPPF.

5.2.6 It is also worth noting that there is less than 2 years remaining within Ryall North and Wildmoor quarries, which equate for around 25% of the County's annual productive capacity. Lea Castle Farm would also help plug this loss of productive capacity.

5.2.7 It should also be noted that 3 further mineral planning applications are pending determination:

- Wilden Lane

- Application reference 21/000036/CM, to extract 250,000 tonnes of sand was registered on 05 August 2022.

- Pinches 4
  - Application reference 19/000056/CM, to extract 850,000 tonnes of sand and gravel was registered on 07 January 2020

- Ripple East
  - Planning application reference 22/000015/CM was registered on 22 March 2022 to extract 475,000 tonnes of sand and gravel

5.2.8 If these planning applications are permitted, they would increase the landbank by 1.9, which would be above the required landbank of at least 7 years for sand and gravel at 7.64 years. However, it should be noted that sales of sand and gravel would continue until the above are potentially permitted and become operational (which could be over 2 years away), so the landbank would be likely to be less than the required landbank of at least 7 years.

5.2.9 In terms of allocations, the emerging Mineral Site Allocations Development Plan Document is at a very early stage. Therefore, given the lead in time for the adoption of the Site Allocations Plan together with the length of time for any allocation to get planning permission will mean that the landbank will not be able to be compliant with the NPPF for a number of years if this Appeal is dismissed.

5.2.10 In summary therefore based on the evidence that I have presented above, I conclude the following:

1. There is a shortfall in sand and gravel supply in Worcestershire; and
2. This appeal proposal meets that immediate need.

5.2.11 These factors combine to show a compelling case on need for the appeal site now.

5.3 Lea Castle Farm Mineral Qualities

5.3.1 Detailed geological investigations were carried out in October 2015 and January 2016. An overview of the geological conditions found following detailed investigations is provided in the ES (CD1.03).

5.3.2 The results from the investigations have confirmed that workable deposits of sand and

gravel are present across the site, together with substantial reserves of weathered bedrock sandstone (Solid Sand), which could be worked on the site.

5.3.3 Laboratory testing of the sand and gravel samples collected during the borehole drilling investigations confirms that the sand and gravel would be suitable for a range of construction and ready mix concrete products. Laboratory testing of Solid Sand confirms that the material is mainly fine to medium grained and would be suitable for a range of mortar, concrete and building sand end uses.

5.3.4 In 2008, the British Geological Survey in their report *"the need for indigenous aggregates production"*, estimate that each new home built in England including an associated proportion of roads and utilities requires as much as 400 tonnes of aggregates. Given the relative proximity of the proposed quarry site to the nearby Lea Castle Village housing and mixed-use development/allocation, the quarry could offer significant sustainability benefits in transportation/ highway limiting distance of journeys and time and flexibility with construction.

5.4 Conclusions

5.4.1 The Government's Planning Practice Guidance (PPG) (Paragraph Reference ID: 27-082-20140306) states *"for decision-making, low landbanks may be an indicator that suitable applications should be permitted as a matter of importance to ensure the steady and adequate supply of aggregates"*. Notwithstanding this, as indicated by the PPG (Paragraph Reference ID: 27-084-20140306) *"there is no maximum landbank level and each application for mineral extraction must be considered on their own merits regardless of length of the landbank. However, where a landbank is below the minimum level this may be seen as a strong indicator of urgent need"*.

5.4.2 It is agreed with the Council that Worcestershire currently does not hold a sufficient landbank of a minimum seven years as required by paragraph 213 of the NPPF. As set out above, even with recent planning permissions, the County does not have a 7 year landbank for sand and gravel. The Lea Castle Quarry proposals will add a further 3 million tonnes of sand and gravel to the County landbank, equating to just over 3.5 years. Lea Castle Farm Quarry could ensure continuity of sand and gravel supply whilst Worcestershire County Council progress with the site allocations document, securing the long term supply of sand and gravel for the County.

5.4.3 The site is located within a strategic corridor and within an area of search as set out in the adopted Minerals Local Plan. Policy MLP 3: 'Strategic Location of development – Areas of Search and Windfall Sites within the Strategic Corridors' states that:

"a) planning permission will be granted for new mineral developments and extensions to extant sites within allocated areas of search where there is a shortfall in supply as demonstrated by Part c)".

5.4.4 Part c) of the draft policy states: *"a shortfall in supply for a broad mineral type will be considered to exist where: i) there is a shortfall in extant sites and allocated specific sites and / or preferred areas to meet the scale of provision required over the life of the plan…".*

5.4.5 This section demonstrates that the landbank is below the minimum of 7 years for sand and gravel, which demonstrates that there is a shortfall in supply.

5.4.6 Further to the above, the nature of the geology of the quarry with a variety of sand and gravel and solid sand, offers a wide product range for construction including building sand, concrete, mortar and drainage material from a sustainable location for supplying the site.

5.4.7 Given all of the above, I consider that there is a clear need for the development and that the provision of sand and gravel to the Worcestershire landbank carries very significant weight in favour of the scheme and is a VSC.

6 The Need for Inert Waste Disposal

6.1 Introduction

6.1.1 To restore the site and help create restoration formation levels, the Appellant is proposing to import approximately 600,000 cubic metres of inert material (circa 1,020,000 tonnes) at a rate of approximately 60,000 cubic metre (circa 102,000 tonnes per annum) per annum. The imported inert material would consist of clean excavated materials consisting of clays, overburden and soil making material.

6.1.2 The Appellant, NRS group of companies are one of the largest independent suppliers of aggregates and waste management operators within the Midlands. Following the applicant's formation in 2005, NRS group now operate across the Midlands with over 70 people employed by the business in the haulage, road sweeper, waste management and quarrying facets of the business. The applicant supplies over 1 million tonnes of aggregates per annum to customers and runs a large fleet of vehicles ranging from tippers to concrete mixers, and also runs some of the largest inert tipping facilities, quarrying and recycling aggregate production operations in the Midlands.

6.2 Policy Context

6.2.1 Policy MLP 26: 'Efficient Use of Resources' of the adopted Minerals Local Plan states that *"mineral development will be permitted where it is demonstrated that the proposed development will make efficient use of natural resources. A level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime, the proposed development will… c) balance the benefits of maximising extraction with any benefits of allowing sterilisation of some of the resource, taking account of:… v) the appropriateness of importing fill materials on to site, and the likely availability of suitable fill materials".*

6.2.2 Policy WCS 5 of the adopted Worcestershire Waste Core Strategy identifies that no capacity gap has been identified for the landfill or disposal of waste. The Policy then states that planning permission will not be granted for the landfill or disposal of waste except where it is demonstrated it meets one of the 3 listed criteria. In this instance, it is considered that Part iii) is relevant, which states *"the proposal is essential for operational or safety reasons or is the most appropriate option"*. Paragraph 4.45 of the

explanatory text states *"landfill or disposal may also be necessary for a variety of operational or safety reasons. Landfill is often an essential component in the restoration of mineral workings"*.

6.3 Restoration Scheme

6.3.1 In order to achieve the restored landform depicted on the proposed 'Concept Restoration Plan', the importation of restoration materials is required as there is insufficient quarry material to achieve this and provide a preferred final landform. To achieve a satisfactory standard of reclamation, it is necessary to import a quantity of suitable material. In addition to being the minimum necessary to achieve the restoration objectives, the volumes proposed for importation are considered to be available and are based on discussions and interest shown from earthworks contractors operating within the surrounding area.

6.3.2 The restoration scheme proposed returns land to a high agricultural land quality and would provide a well-draining and visually congruous landform, with a mix of end uses appropriate for its location. The benefits of providing additional, albeit limited, capacity for inert waste materials at an environmentally acceptable site with purpose-built access are considered to add weight to the benefits of the proposed development. The utilisation of the exposed extraction areas for the deposit of restoration materials to create beneficial final profiles are considered logical and beneficial and would provide a permanent sustainable legacy for public enjoyment and wellbeing.

6.4 Locational and Sustainability Benefits

6.4.1 A further key consideration is the number of proposed and permitted large-scale residential schemes in close proximity to 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. The site is ideally suited to help support growth in respect of the provision of minerals and the importation of inert waste associated with the Lea Castle village development. Large quantities of inert waste will arise from this large scale scheme.

6.4.2 Furthermore, the site is ideally geographically located to support growth/development

in north Worcestershire and the West Midlands. 20 different construction projects have been planned for the West Midlands region of the UK, costing a total of approximately £10bn and will require the deposition of significant volumes of inert waste. Notwithstanding HS2, some of the construction works include the redevelopment of land across new stations created for HS2. The prospectus also includes office, retail, and residential buildings – to be located near the new Birmingham International and Birmingham city centre train stations. There are also plans for Wolverhampton's city centre, with the canal side to be redeveloped and a manufacturing park that houses Jaguar Land Rover is to be extending.

6.4.3 The Appellant is confident that market demand, growth projects in the area, increased housing demand would support the need for inert void at Lea Castle Farm over and above that permitted for the life of the site. Given the above, the deliverability of the restoration scheme at Lea Castle Farm with the importation of 60,000 cubic metres per annum is considered achievable.

6.4.4 If there were any questions regarding the achievability of the importation levels, the Appellant operates Meriden Quarry, which is the only Environment Agency permitted landfill accepting inert waste in West Midlands Metropolitan Districts. The total inert waste received at Meriden Quarry in 2021 was 783,452 tonnes. Therefore, if required, 60,000m^3 per annum could be redirected from Meriden Quarry to Lea Castle Farm to enable restoration.

6.5 Conclusions

6.5.1 The importation of inert materials as part of the restoration of the site will create a high-quality estate parkland setting which provides opportunities for living, leisure, recreation and enjoyment for local communities. The restoration scheme would also contribute to tackling climate change through the planting of approximately 9,750 woodland trees, 50 parkland trees, 120 avenue trees, and the planting and strengthening of existing hedgerows, measuring approximately 1,018 metres long, and the creation of approximately 7.5 hectares of acid grassland, resulting in a significant net gain for biodiversity.

6.5.2 Further to the above, there is an anticipated increase in inert waste likely to be generated from large infrastructure projects in north Worcestershire and the West Midlands over the next 10 years including the Lea Castle Village development.

6.5.3 The Appellant is confident that market demand, growth projects in the area, increased housing demand will support the need for inert void at Lea Castle Farm over and above that proposed for the life of the Appeal Site. Given the above, the deliverability of the restoration scheme at Lea Castle Farm with the importation of 60,000m^3 per annum is achievable and that the proposal is in accordance with Policy WCS 5 of the adopted Worcestershire Waste Core Strategy.

7 Impact on Residential Amenity and Local Schools

7.1 Introduction

7.1.1 There are no objections, from specialist consultees, to the proposal on the basis of landscape and visual impact, ecology, ground water and surface water nor the historic environment. In the field of minerals planning, each of those assessments is important and it is commonplace at other sites there are well founded objections on each and every one of those topic areas from specialist, expert consultees. Here, there are none. Further, in respect of air quality, noise, dust, highways there is no objection from any specialist consultee. All conclude that the effects are acceptable, subject to appropriate conditions. Hence, in terms of environmental effects, during the determination of the application, there was complete and full agreement from all professional consultees that each and every environmental effect of the scheme is acceptable.

7.1.2 In the Council's reasoning for Reason for Refusal 3: Unacceptable impact on residential amenity and local schools, set out in the information section of the Decision Notice (CD10.02), it states that *"The site is located within the vicinity of several residential and commercial properties"* and *"There are also a number of schools within the context of the application site and the wider area including Heathfield Knoll School and First Steps Day Nursery located approximately 15 metres south of the application site, and approximately 80 metres at its closest point to the proposed mineral extraction. Due to the close proximity of the proposal to these receptors, it is considered it would have an unacceptable impact on residential amenity and local schools, particularly in terms of dust emissions"*.

7.1.3 WCC in their Statement of Case have set out that there has not been satisfactory consideration of cumulative impacts with other developments in the area and makes reference to dust and air quality and noise.

7.1.4 The Council in their Statement of Case have also set out the potential for a detrimental impact on the visual outlook of impacted properties.

7.1.5 It was confirmed by WCC's Counsel during the case management conference that no expert witness for noise or air quality would give evidence at Inquiry. Therefore, it appears that the Council's position is a negative one stating that the requisite

assessment has not been provided. This goes to the cumulative impacts of the case. With the support of technical experts an assessment of cumulative impact has been undertaken and is summarised in section 8 and presented in Appendix 2.

7.1.6 Cumulative impacts are addressed in section 8 of my Proof.

7.1.7 The NPPF recognises that minerals can only be worked where they are found, and by virtue of the nature of mineral extraction operations, there will always be some impact on the environment and amenity. The imperative is not to provide for mineral developments which take place with no impact, but to ensure that the effects are regulated to within 'appropriate limits' and that restoration is carried out at the earliest opportunity to high environmental standards. It is therefore not credible to suggest that mineral development can take place with no adverse effects on any interest, and it is not part of the Appellant's case, or my evidence, to suggest that the development will not cause any environmental or amenity effects.

7.1.8 It is worth noting though that the Council have decided not to defend their original Reason for Refusal 9 – Unacceptable impact on health of local population. environment and wildlife. Therefore, in deciding not to defend that reason for refusal, it can be inferred that the Council are not suggesting that the impacts on residential amenity and local schools will be such that there would be an impact on human health.

7.1.9 In order to address the potential for impact on noise, dust & air quality and landscape and visual, I rely on the technical expertise of my colleagues and this is set out below:

7.2 Dust and Air Quality

7.2.1 In terms of Dust and Air Quality and Reason for Refusal 3 with regards to *unacceptable impact on residential amenity and local schools*, WCC in their Statement of Case have set out that there has not been satisfactory consideration of cumulative impacts with other developments in the area and makes reference to dust and air quality.

7.2.2 With regards the above, I rely on the evidence of Ms Katrina Hawkins with the findings of the evidence discussed below.

7.2.3 The Vibrock Dust Impact Assessment submitted with the planning application (CD1.08) considered the potential impacts from fugitive dust on local receptors, both with regards to dis-amenity dust and PM_{10}. The assessment also included recommended outline mitigation measures that would be incorporated within any future consented

operations. The assessment was reviewed by Worcestershire Regulatory Services who did not request any further information or raise any objections to the proposals with regards to dust and air quality.

7.2.4 Ms Hawkins has carried out further assessment of the potential cumulative impacts of the proposed developments with other consented / allocated development in the area. This specifically considers the core and wider Lea Castle Village development to the east. This has considered both the potential impacts of any dust generated by the proposed development on any new sensitive receptors to be introduced by the Lea Castle Village, and the potential cumulative impacts on any existing receptors that may be affected by these developments should they occur concurrently.

7.2.5 In undertaking this assessment the proposed mitigation measures and the recommended planning condition that would require the operation of the facility in accordance with an agreed DMP, as in standard best practice, and other relevant proposed conditions has been considered. Further regulatory control would be provided through the Environmental Permit that would be applicable to the material import aspects of the development.

7.2.6 Ms Hawkins concludes that the Appeal proposals would not result in significant adverse impacts or unacceptable impacts on local amenity either alone or in-combination with the Lea Castle Village development.

7.2.7 Other potential aerial emissions associated with the proposals such as on-road vehicle exhaust emissions are also not predicted to result in significant adverse impacts.

7.2.8 Overall, from a review of the information and results of the assessment, Ms Hawkins concludes that, with the incorporation of appropriate mitigation as already employed at the site, the proposed development complies with the relevant national and local planning policies in relation to dust and air quality.

7.2.9 Therefore, based on the evidence of Ms Hawkins along with the advice of Worcestershire Regulatory Services, the Environment Agency, the County Public Health Practitioner, the Head of Planning and Transport Planning, I consider that subject to the imposition of appropriate conditions, there would be no adverse air pollution or dust impacts either singularly or cumulatively on residential amenity or that of local schools.

7.3 Noise

7.3.1 The evidence of Ms R Canham addresses Reason for Refusal 3: Unacceptable impact on residential amenity and local schools relating to noise along with addressing potential cumulative impacts relating to noise. The findings of the evidence discussed below.

7.3.2 The baseline noise results, suggested site noise limits and calculated site noise levels from the previous noise assessment undertaken by WBM in 2019 include the noise levels at the nearest noise sensitive receptors to the proposed quarry site. As set out in the Statement of Common Ground, WCC confirmed that WRS were satisfied that the previous calculated noise levels in the report prepared by WBM were robust, albeit in isolation.

7.3.3 In response to comments from WCC, the results of calculations for additional noise sensitive receptors, specifically either permitted or allocated developments, have been included in evidence of Ms Canham. The same calculation model as used for the quarry noise assessment undertaken by WBM in 2019 has been used for these additional receptors. All of the calculated site noise levels comply with the suggested site noise limits for normal and temporary quarry operations for these additional receptors. Operations at the proposed quarry at the Appeal site would not cause any significant impact at these the permitted and proposed residential developments.

7.3.4 Cumulative impact has been addressed, with noise from construction activities at the Lea Castle Village site considered to be the most significant noise source associated with other developments that may have an impact on the noise sensitive receptors.

7.3.5 If construction noise was at the possible maximum limit at a noise sensitive receptor, noise from the quarry would be insignificant compared to the potential construction noise from the housing development. As such, the addition of site noise from the quarry would not change the cumulative noise impact at this receptor, as the noise environment would be controlled by construction noise.

7.3.6 Construction noise will be variable and temporary, and only likely to be in close proximity to any noise sensitive receptors for relatively short durations. In addition, the calculated site noise levels due to the quarry are worst cases, assuming simultaneous extraction and infilling operations occurring at the nearest parts of the quarry to the receptor, which would not happen in practice. Taking this into account, the cumulative

impact from both normal site activities from the quarry and construction operations is unlikely to be significant at any receptor.

7.3.7 As such, the consideration of cumulative impact does not alter the outcome of the original noise assessment of the site.

7.3.8 With regard to cumulative impact on Heathfield Knoll School and Nursery, these are located approximately 1 kilometre from the Lea Castle Village site. At this distance, any construction noise from the Lea Castle site would be insignificant and is likely to be inaudible at the school and nursery, and as such would not change the impact assessment of quarry noise affecting this receptor.

7.3.9 Therefore, based on the evidence of Ms Canham along with the advice of Worcestershire Regulatory Services, the Environment Agency, the County Public Health Practitioner, the Head of Planning and Transport Planning, I consider that subject to the imposition of appropriate conditions, there would be no adverse noise impacts on residential amenity or that of local schools.

7.4 Landscape and Visual

7.4.1 A review of residential visual amenity in respect of Reason for Refusal 3 has been carried out in the evidence of Mr Neil Furber and the findings are discussed below.

7.4.2 Screen bunds are employed as an embedded mitigation measure in most quarry developments, to address potentially unacceptable environmental impacts, notably noise and outlook, from the operational phase. The screen bunds are a temporary soil store (grass seeded) and form an important part of the restoration material, located close to the phase being restored. The precise height and separation distance are frequently dictated by noise mitigation requirements. No concerns regarding the inclusion of screen bunds close to dwellings at the Appeal Site were raised by the County Landscape Officer, Head of Planning and Transport, or any other statutory consultee.

7.4.3 The effects of the closest screen bunds upon residential visual outlook, first appeared at paragraph 5.7 in WCC's Statement of Case, which states the following: *"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"*.

7.4.4 It is not unusual for temporary screen bunds to be employed as part of quarry schemes at the heights and separation distances from dwellings that are proposed at the Appeal Site.

7.4.5 With reference to best practice guidance (TGN 2/19 published by the Landscape Insititute), it is an established planning principle that no one 'has a right to a view'. This includes where outlook / visual amenity is judged to be 'significantly' affected by a proposed development, as confirmed in a number of appeal / public inquiry decisions. It is not uncommon for development to have a significant effect on visual amenity and in itself this does not necessarily cause planning concern.

7.4.6 Consideration of acceptable separation distances between built form/engineered structures and nearby residents can be informed by the approach commonly adopted in housing developments. Typical separation distances between back-to-back housing is 20-23m. This separation is adopted to ensure that adequate daylight, sunlight, outlook, and privacy is achieved for all residents.

7.4.7 Mr Furber considers that screen bunds of equivalent height and separation distance to permanent buildings e.g. a row of terraced houses, would have a reduced effect upon visual amenity of nearby dwellings because they are temporary structures, and they do not have windows that impact privacy.

7.4.8 In terms of this Appeal, the separation distances between the closest dwellings and the screen bunds have been designed to be over three times greater than the minimum separation distances typically adopted for back-to-back housing.

7.4.9 Mr Furber has considered the views of the Appeal Development, including the screen bunds, that would be experienced by residents close to the Site comprising the Equestrian Centre Bungalow, Keeper's Cottage, North Lodges, Castle Barns/White House, Four Winds, Broom Cottage, South Lodges and Brown Westhead Park. In evidence it is described how effects upon visual amenity would typically range from Slight to Moderate adverse and would not be Significant. It is therefore concluded that there would be no potential for the Residential Visual Amenity Threshold to be breached at any dwelling.

7.4.10 In conclusion, Mr Furber assesses that there would be no unacceptable impact on the outlook experienced by residents living close to the Appeal Site.

8 Cumulative Impact

8.1.1 A Cumulative Impact Assessment was carried out as part of the original application and formed part of the Environmental Statement at Chapter 22 (CD1.03). 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.

8.1.2 These findings were accepted by Worcestershire County Council's Head of Strategic Infrastructure and Economy, with paragraph 871 of the Committee Report (CD10.01) 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".

8.1.3 Cumulative Impact was not set out by members of the Planning and Regulatory Committee as a reason for refusal.

8.1.4 However, despite the above, as part of the Council's Statement of Case, they have raised issues in terms of the Appeal development having 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, with the development at Lea Castle village, to the east of the Appeal site being directly highlighted. It should be noted that the development of Lea Castle Village was discussed within the Committee Report (CD1.03) and cumulative impacts did not form a part of any of the reasons for refusal.

8.1.5 Further to the above, in relation to reason for refusal 3. Unacceptable impact on residential amenity and local schools, in the Council's Statement of Case, they have raised the following in terms of noise and dust:

Noise

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.

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.

Air Quality and Dust

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.

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.

8.1.6 WCC are not offering technical expert evidence on matters of visual, noise or air quality impact. The evidence they are providing is in terms of planning and their assertion that insufficient consideration has been given to the cumulative impact of the proposed development. We consider that the further technical work provided on landscape, noise and air quality now meets the concerns raised with WCC's statement of case.

8.1.7 With regards the Lea Castle Village allocation, it should be noted that this was formally allocated with the adoption of the Wyre Forest District Local Plan on 26 April 2022,

which was under 1 month prior to the Planning Committee meeting on the 24th May 2022 to determine the appeal proposal.

8.1.8 Therefore, in order to address the points raised by the Council in their Statement of Case a revised Cumulative Impact Assessment has been prepared with input from the evidence of Mr Furber Ms Hawkins and Ms Canham and is attached at Appendix 2 to this Proof, with a summary of the findings set out below.

Cumulative Impact Assessment Summary

8.1.9 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.

8.1.10 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.

8.1.11 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.

8.1.12 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.

8.1.13 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.

8.1.14 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.

8.1.15 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.

9 Comments On Issues Raised By the Rule 6 Party and Other Interested Parties

9.1.1 I recognise that the planning application and this appeal has generated objections from local residents and other interested parties, and these concerns will be articulated at the inquiry by the Rule 6 party.

9.1.2 I set out below the general issues that have been raised and where they have been addressed.

Contrary to Policy 2 (Other Sand and Gravel Deposits) of the County of Hereford and Worcester Minerals Local Plan (Adopted April 1997) (Saved Policies)

9.1.3 Reason for Refusal 1 related 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 no longer part of the Development Plan. Furthermore, Policy 2 is not in accordance with the NPPF which does not operate a sieve test, or impose a blanket ban on all development within primary constraints, for example within AONBs, SSSIs or within a buffer strip of 200 metres from the boundary of a potential working area to the nearest main walls of the nearest property. As set out in WCC's Statement of Case, *"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."*

9.1.4 Notwithstanding the above, WCC's professional officers have set out quite clearly in the Committee Report (CD10.01) that the policy is met (through its internal 'exceptional circumstances' test). Therefore, even if Policy 2 did apply, the Appeal is capable of demonstrating exceptional circumstances, which along with the fact that there would be no adverse air pollution, noise, dust, vibration, odour or lighting impacts on residential amenity or that of human health, would justify departure from the strict outcome of the sieve test in Policy 2.

Green Belt

9.1.5 With regards to Green Belt, I have addressed this specific issues in section 4 of this Proof and it has also been addressed in the evidence of Mr Neil Furber.

Impact on residential amenity and local schools

9.1.6 Evidence has been produced by Mr Neil Furber on the potential for visual impacts, by Ms Karina Hawkins with regards Dust and Air Quality and by Ms Rachel Canham on noise. Issues regarding the impact on residential amenity and local schools has also been set out in section 7 of this Proof.

Impact on the Local Economy

9.1.7 Having regard to the local economy, development, growth and economic considerations are set out in section 10.4 of this Proof. It is noted that the Appeal development will employ 11 direct employees. In addition, the quarry will be a significant contributor to the local economy, with the contribution estimated to be over £6 million per annum.

Public Rights of Way Concerns

9.1.8 The Appeal Scheme proposes to create a new public right of way (bridleway) measuring approximately 2.3 kilometres in length around the perimeter of the site. In addition, permissive routes (bridleway standard) measuring approximately 0.4 kilometres in length (combined) are proposed as part of the final restoration of the site, equating to 2.7 kilometres of proposed public bridleways and permissive bridleways.

Traffic and Transport Concerns

9.1.9 The evidence of Mr J Hurlstone (attached at Appendix 3 to this Proof) reviews the concerns raised by the Rule 6 Party STQC in its Statement of Case insofar as they relate to highway matters. Mr Hurlstone's evidence sets out the following:

"Having completed the review I have concluded that the technical assessment of the proposed access and traffic impact of the quarry traffic on the local road network is robust and underpinned by relevant guidance.

Claims made by STQC regarding deficiencies in the assessment are demonstrably incorrect by cross-referencing the technical information considered at the planning application.

Whilst STQC may have general concerns regarding the local Highway Authority's transport policies and performance of its road network, these concerns are more appropriately directed to the Council outside the forum of the appeal for this particular development.

Notwithstanding those concerns, it has been demonstrated that the quantum of development traffic associated with the site would not result in an unacceptable impact on the local road network.

Insofar as highway and transport matters are concerned, I trust the Inspector agrees with my own conclusion, and that of the Council, that planning permission should not be refused on highway grounds, as the access design is demonstrably acceptable in the context of recognised design guidance and the cumulative residual impact on the road network would not be severe".

9.1.10 Overall therefore, the Appellant considers it has demonstrated that the proposed operations would not lead to an unacceptable impact on highways.

Impact on Ecology and Wildlife

9.1.11 The Appellant considers that the proposed development would not have an unacceptable impact on the ecology, biodiversity and geodiversity at the site or in the surrounding area, including European sites, and would protect, conserve and enhance the application site's value for biodiversity and geodiversity. An updated walkover survey (attached at Appendix 4 to this Proof) has been carried out by Ms Justine Walsh, which confirms the current baseline data remains representative of that submitted with the original application.

9.1.12 As set out in the Committee Report (CD10.01), the proposals were carefully considered by Natural England, Worcestershire Wildlife Trust, the District Council's Countryside and Parks Officer, the County Ecologist, the Woodland Trust, the Forestry Commission and the Earth Heritage Trust, none of whom objected.

9.1.13 As discussed in section 10.5 of this Proof, the benefits resulting from this proposed development are substantial and wide reaching and it has been agreed with the Council at paragraph 7.19 of the SoCG *"that the submitted Restoration Plan and scheme outlined within the Environmental Statement (CD1.03) provide a Biodiversity Net Gain of approximately 87.21% (CD5.28). The County Ecologist welcomed the net gain"*.

9.1.14 As part of this Appeal, an updated quantitative assessment of biodiversity impacts was undertaken using Biodiversity Metric 3.1 Calculation (See Appendix 4). Metric 3.1 allows for delay factors relating to the commencement of future habitat creation/restoration/enhancement to be inputted as variables within the metric as these can also have a material effect on predicted future net-biodiversity values on site.

This is particularly relevant for this scheme, as the phasing plans allow for significant temporal variation in the likely commencement date of different areas of proposed habitat creation/restoration/enhancement.

9.1.15 The previous Biodiversity Metric 2.0 did not allow for the accounting for any delay factors, and less precautionary in the timescale that it deemed habitat creation and enhancement could be delivered. As such Metric 3.1 is significantly more conservative in the scale of is measurable gains, and as such can be viewed as more robust as it is more representative of a 'worst case scenario' as regards the scheme's biodiversity impacts.

9.1.16 The outputs of the updated Biodiversity Metric 3.1. are summarised below:

HABITATS:

- Existing Baseline = 115.93 Biodiversity Units;
- On-site Post-Intervention= 161.51 Biodiversity Units; and
- Total Net Unit Change (B-A) = +45.58 Gain of Biodiversity Units.

HEDGEROWS:

- Existing Baseline= 2.74 Hedgerow units;
- On-site Post-Intervention= 5.68 Hedgerow Units; and
- Total Net Unit Change (B-A) = +2.94 Gain of Hedgerow Units.

9.1.17 The Biodiversity Metric 3.1 demonstrates the proposed scheme will deliver a likely substantial net gain for biodiversity of **+39.31% BU** for habitats, and **+107.51% HU** for hedgerows.

9.1.18 This significant 'likely' net gain is due to areas of low distinctiveness arable land, improved grassland, scrub and tall ruderal vegetation being replaced by high distinctiveness acid grassland, woodland, parkland, waterbodies and the plating of scattered trees.

9.1.19 Existing Ecological functionality will be maintained at the site via the retention of the hedgerow and woodland networks and further enhanced through new hedgerow planting and the creation of additional woodland areas and scattered trees.

9.1.20 These measures will ensure that there is wider landscape habitat connectivity and that suitable habitat resources are available for protected species (bats, birds, small mammals, invertebrates, herpetofauna, etc.).

9.1.21 The phased nature of the development will limit the total duration of works/disturbance within each section of the site allowing for the restoration habitats (in one location or another) to occur continuously after the completion of the first phase. Meaning that the combined adverse impacts upon mobile site fauna is likely to be reduced as areas of refuge are always available.

Impact on the Health of the Local Population

9.1.22 All the usual 'pathways' through which health could be adversely impacted (noise, odour, dust, air quality, vibration, lighting etc) have been considered through technical evidence, and the proposal has not been shown as breaching any of the relevant guidelines.

9.1.23 Therefore, based on the advice of Worcestershire Regulatory Services, the Environment Agency, and the County Public Health Practitioner, the Head of Planning and Transport Planning considered that, subject to the imposition of appropriate conditions, there would be no adverse air pollution, noise, dust, vibration, odour or lighting impacts on residential amenity or that of human health.

9.1.24 Furthermore, as set out in section 7 of this Proof, it is worth noting though that the Council have decided not to defend their original Reason for Refusal 9 – Unacceptable impact on the health of the local population. Therefore, in deciding not to defend that reason for refusal, it can be inferred that the Council aren't suggesting that the impacts on residential amenity and local schools will be such that there would be an impact on human health.

9.1.25 The NPPF recognises that minerals can only be worked where they are found, and by virtue of the nature of mineral extraction operations, there will always be some impact on the environment and amenity. The imperative is not to provide for mineral developments which take place with no impact, but to ensure that the effects are regulated to within 'appropriate limits' and that restoration is carried out at the earliest opportunity to high environmental standards. It is therefore not credible to suggest that mineral development can take place with no adverse effects on any interest, and

it is not part of the Appellant's case, or my evidence, to suggest that the development will not cause any environmental or amenity effects.

10 Very Special Circumstances

10.1 Introduction

10.1.1 It is my view the Appeal Proposal is not inappropriate development in the Green Belt. If that is accepted, the principle of the proposal is in full accord with the Development Plan. In light of my evidence above that addresses the potential specific impacts of the proposals, the development as a whole is in accordance with the Development Plan. There are no material considerations that indicate that the decision should be taken otherwise than in accordance with the Development Plan. Accordingly this development should be approved 'without delay' (NPPF para. 11(c)).

10.1.2 However, should the Inspector conclude that the proposals constitute inappropriate development, I set out below that VSC exist to overcome the 'great weight' attached to protecting Green Belts.

10.1.3 It is noted that VSC also need to outweigh any 'other harms' that the proposal may cause. As has been demonstrated through the Environmental Statement, noted in the Committee Report and set out in the evidence of Mr Neil Furber, Ms Rachel Canham, Ms Katrina Hawkins, Mr Jeremy Hurlstone and Ms Justine Walsh, other harms, after mitigation, or through regulatory control imposed by planning conditions, are minor (not significant) and would not run contrary to the Development Plan policies. As such I conclude that the Appeal Scheme does not give rise to 'any other harm' (NPPF, 148).

10.1.4 It is noteworthy that in review of the Minutes of the Committee Meeting (CD10.03) and despite the Council considering that the proposal is inappropriate development in the Green Belt, they appear to have given no consideration to VSC to overcome this harm.

10.1.5 In this section, I set out what I consider constitutes VSC:

- The need for the proposed development with particular regard to the landbank position for sand and gravel;
- Environmental and Sustainability benefits;
- Development, Growth and Economic Considerations; and
- Restoration and biodiversity benefits.

10.2 Mineral Need

10.2.1 As has been clearly set out in Section 5 of my evidence, there is a demonstrable and urgent need for the release of new mineral reserves in Worcestershire to ensure that there is a "steady and adequate supply of aggregates" and "maintenance of the landbank". It is agreed with the Council that the landbank is below 7 years. As noted in paragraph 084 (Reference ID: 27-084-20140306) of the Planning Practice Guidance, *"There is no maximum landbank level and each application for minerals extraction must be considered on its own merits regardless of the length of the landbank. However, where a landbank is below the minimum level this may be seen as a strong indicator of urgent need".*

10.2.2 The Lea Castle Quarry proposals will add a further 3 million tonnes of sand and gravel to the County landbank, over a period of 10 years. Lea Castle Farm Quarry could ensure continuity of sand and gravel supply whilst Worcestershire County Council progress with the site allocations document, contributing to the security of the long term supply of sand and gravel for the County.

10.2.3 Given the above, I consider that there is a clear need for the development and that the provision of sand and gravel to the Worcestershire landbank is a VSC. Para. 211 of the NPPF is unequivocal: 'great weight should be given to the benefits of mineral extraction, including to the economy'.

10.3 Environmental and Sustainability Benefits

10.3.1 There are many environmental and sustainability benefits to the proposed development at Lea Castle Farm, namely:

- Unique logistical position in the marketplace, as Worcestershire has a clear divide in available resource. The northern half of the County in which the Appeal Site is located contains the solid sands (building and mortar markets) with the concreting sand and gravels from the terrace and glacial deposits in the south of the county. However, this site is unique in that there is resource of concreting sand and gravels from the western half of the site with the solid sands to be extracted from the eastern half of the site. The two different resources serve different and distinct markets. Their location within the county would affect the distance they need to travel to market as well as the demand

/ pull on resources from outside the county to meet demand. The number of active and permitted sites (but non-operational) sites are also small in number which may affect the distance the reserves travel to market;

- 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. The Appeal Proposal would help provide a balanced geographical spread of mineral supply sources; and
- A further key consideration is the number of proposed and permitted large-scale residential schemes in close proximity to the Appeal Site. Given the relative proximity of the proposed quarry site to the nearby Lea Castle Village housing and mixed-use development/allocation, the quarry could offer significant sustainability benefits in transportation/ highway limiting distance of journeys and time and flexibility with construction. Furthermore, 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.

10.3.2 On the basis of the above, I consider the environmental and sustainability benefits of the scheme to represent VSC.

10.4 Development, Growth and Economic Considerations

National Sales Trends for Aggregates

10.4.1 The minerals products industry is a vital enabling sector of the UK economy, which has a broad impact on overall economic activity. As the largest element of the construction supply chain, a supplier of key materials to many other industries, and the largest material flow in the UK economy, a healthy domestic mineral products industry is essential for the UK.

10.4.2 The NPPF (para. 81) is unambiguous that the planning system should support sustainable economic growth and that this should attract significant weight in planning decisions.

Development and Growth

10.4.3 At the national level, Government statements and policy have outlined the need for investment to provide the engine for growth and recovery of the economy in these exceptional times. The government has been absolutely consistent through the Brexit transition period and the pandemic about the scale of investment that it is proposing in infrastructure and the publication, in November 2020, of the National Infrastructure Strategy confirms that £27 billion will be invested in economic infrastructure in 2021/22 alone, with the clear aims of achieving the following:

- To boost growth and productivity – this will require minerals to build the infrastructure proposed so now is not the time for Worcestershire to have a shortfall in supply;
- Putting the UK on the path to achieving its net zero emissions target – so now is not the time to be increasing the mileage that mineral such as that at Lea Castle Farm has to travel;
- Supporting private investment in the UK – so now is the time to support a local industry; and
- Accelerate and improve delivery of infrastructure projects – so again now is not the time for Worcestershire to have a shortfall in supply.

10.4.4 Therefore, the Government is committed to investing in infrastructure, which will require minerals and as a company, NRS are already seeing evidence of a commitment to building and infrastructure spend.

The Appellant and economic considerations

10.4.5 The appeal proposal at Lea Castle Farm would create 11 jobs for approximately 10 years. Furthermore, and notwithstanding the identified need for sand and gravel (as set out in section 5), the proposed quarry would provide a significant contribution to the local economy. Based on costs associated with 2 of the Appellant's quarries at Sarendon and Woodcote, local expenditure in year 1 would be in the realms of 5 – 7 million pounds for items such as purchase of plant, purchase of offices, weighbridge and maintenance, construction costs, payments to land owners, highway access, security installation.

10.4.6 Further to this and in terms of yearly/ongoing costs, again based on Sarendon and

Woodcote quarries, it is estimated that this contribution would equate to between 6 – 7 million per annum on items such as aggregates levy, business rates, direct labour, equipment hire/haulage costs, maintenance, security, Plant/transport repairs & running costs, sales and administration costs and restoration costs.

10.4.7 This would represent a significant boost to the local economy.

10.4.8 Also, the extractive industries (i.e. mining and quarrying) are much more capital intensive than other sectors of the British economy and have very high levels of labour productivity (measured by Gross Value added per employee). Gross value added (GVA) is defined by the Office for National Statistics (ONS) AS "the contribution to the economy of each individual producer, industry or sector."

10.4.9 Whilst directly employing 81,000 people and supporting 3.5 million jobs through its supply chain in 2018, the mineral products industry is also a highly productive industry: each worker produced over £71,000 in gross value added in 2018, equivalent to 1.2 times the national average (C12.01). The mineral products industry represents very good value to the economy and contributes positively to economic growth.

10.4.10 In addition to high GVA, CD12.01 sets out that the Mineral Products Industry directly contributed to the UK economy by generating over £5.8bn in gross value added in 2018 (figure 2.2a). The industry had a turnover of £16.3bn in 2018, and enabled a further £596.7bn turnover in industries downstream of the supply chain.

10.4.11 The above considerations are important as they provide an indication of the wider/ indirect effects of quarrying, including how the expenditure generated from this activity is likely to be distributed across other parts of the local economy, and hence whether jobs could be retained or generated in these sectors.

10.4.12 Quarrying depends on its suppliers to provide critical goods and services to act as inputs to maintain the production process. The absolute level of expenditure can be very variable, reflecting the ad hoc nature of capital investment in what is one of the most capital intensive industries. However, the proposed extension will largely rely on existing site infrastructure for its operations. This equipment will require maintenance and/ or replacement over the course of the additional life of the quarry.

10.4.13 Some of the major suppliers provide a blend of equipment and services, from a range of local and non-local premises. These considerations, taken in combination with the year-on-year variations reported above, mean that accurate cost data is difficult to

predict and should not be over-interpreted, particularly as regards the level of stimulus that is being provided to the very local economy. This is partly due to the fact that the economic effects arising from the site also affect remote locations such as the company/ suppliers regional and head offices where a number of employees might be based to provide the support services. Identifying the exact economic benefit is therefore somewhat difficult. However, what is clear is that without the site there will be a significant deficit in the local economy based on annual costs incurred at present.

10.4.14 Having regard to the employment of 11 direct employees along with the significant contribution to the local economy, I consider that this constitutes VSC.

10.5 Restoration and Biodiversity Benefits

10.5.1 The proposed restoration scheme from phased restoration through to final restoration will bring significant biodiversity benefits, through increasing and enhancing local ecological networks and ecological functionality.

10.5.2 The aim of the progressive restoration scheme is the creation of a High Quality Agricultural Parkland, reflecting that of the lost/demolished Lea Castle parkland grounds.

10.5.3 The restoration proposals have been developed in consultation with the development team, the landowner and parties interested in wildlife, amenity, wellbeing and farming. This ensures that the scheme works within its physical, social and environmental parameters to best achieve a holistic green infrastructure approach. The scheme will create a landscape which can be sustainably managed for the benefit of both the landowner and the local community.

10.5.4 The progressive nature of the phasing scheme ensures that disturbed land is kept to a minimum and each phase of extraction is only temporarily disturbed before work commences to restore the land to the proposed uses within the final restoration scheme.

10.5.5 The restoration scheme will deliver approximately 9,750 trees to be planted to create woodland blocks (approximately 3.42 hectares in area); approximately 50 parkland trees to be planted in agricultural grassland / cropping and approximately 120 trees to be planted along the parkland avenue to reflect the former parkland setting; approximately 7.5 hectares of acid grassland creation; and approximately 1,018 metres

of linear hedgerow planting and strengths (approximately 439 metres of existing strengthened hedgerows and approximately 579 metres proposed new hedgerows).

10.5.6 It has been agreed with the Council at paragraph 7.19 of the SoCG *"that the submitted Restoration Plan and scheme outlined within the Environmental Statement (CD1.03) provide a Biodiversity Net Gain of approximately 87.21% (CD5.28). The County Ecologist welcomed the net gain"*.

10.5.7 As discussed in section 9 of this Proof, as part of this Appeal, an updated quantitative assessment of biodiversity impacts was undertaken using Biodiversity Metric 3.1 Calculation (See Appendix 4). Metric 3.1 is significantly more conservative in the scale of is measurable gains than Metric 2.0 (used to calculate the 87.21% figure), and as such can be viewed as more robust as its more representative of a 'worst case scenario' as regards the scheme's biodiversity impacts.

10.5.8 The Biodiversity Metric 3.1 demonstrates the proposed scheme will deliver a likely substantial net gain for biodiversity of +39.31% BU for habitats, and +107.51% HU for hedgerows.

10.5.9 Although lower than the Metric 2.0 figure, the 39.31% net gain is nearly 4 times that required by legislation contained in the forthcoming Environmental Bill.

10.5.10 It can be concluded that the benefits resulting from this proposed development are substantial and wide reaching. From an ecological / biodiversity perspective it is clear that this development, provides betterment.

10.5.11 It is considered that the appeal proposal when factoring in final restoration, would conserve and enhance the landscape.

10.5.12 I consider the restoration and biodiversity benefits of the scheme contribute to VSC and a major benefit of the appeal proposal.

10.6 Conclusion

10.6.1 Based on the above, even if the Appeal Scheme is found to be inappropriate development in the Green Belt, there are significant factors that weigh in favour of the scheme which I consider taken as a whole constitute VSC (i.e. the potential harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (NPPF para.148)).

11 Planning Balance and Conclusions

11.1.1 In this Section I set out my consideration of the planning balance and in so doing, I pose the following questions:

1. Do the proposals constitute appropriate development in the Green Belt?
2. Do the proposals conflict with the purposes of Green Belt?
3. Is there any detrimental effect on residential amenity and local schools?
4. Is there a need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County?
5. If considered inappropriate development in the Green Belt, does the Appeal Proposal demonstrate VSC?

11.1.2 In terms of the Green Belt, there would be impacts, however, the proposed development would, notwithstanding its duration, be a temporary activity and whilst the proposal would disturb the site for a period of time, it would be progressively returned to an open state following completion of extraction and would be no more built up on completion of the development as a result of the proposal as it is now.

11.1.3 In view of the above, I consider that the Proposed Development does not constitute inappropriate development in the Green Belt when regard is had to all matters, including the level of impact during the operational phase, the duration of that phase, and the fact that following restoration there would be no impact on openness and no conflict with the purposes of including land within the designation.

11.1.4 Furthermore, the Appeal Scheme does not significantly affect the purposes of the Green Belt. The effects are temporary, and so would be reversible on completion of restoration. The restoration scheme allows for a combination of creating habitats focussed on delivering biodiversity along with the provision of areas for amenity use and public access, including a network of formal and informal paths. These are consistent with Green Belt aims, and in particular paragraph 145.

11.1.5 In terms of potential harms to residential amenity and local schools, as set out in section 7 of this Proof, based on the findings of the ES, coupled with the evidence of Mr Neil Furber, Ms Katrina Hawkins and Ms Rachel Canham, there are no significant

effects on the amenity of local residents and local schools as a result of visual impacts and dust or noise emissions. Either cumulatively or in isolation, these are limited and are considered to be within acceptable limits, noting that some degree of impact from mineral development is inevitable (and indeed accepted in policy – see NPPF paragraph 211). I therefore give slight weight to the potential harms.

11.1.6 It has been agreed with the Council that the Appeal Scheme would not give rise to any significant effects to ecology, archaeology and cultural heritage, soils and agricultural land and the water environment. This is corroborated by the findings of the ES.

11.1.7 Similarly, based on the findings of the ES, coupled with the evidence of Mr Jeremy Hurlstone, there are no significant effects arising through the movement of HGVs associated with the development.

11.1.8 Overall therefore, whilst the proposals would result in some harm, I consider the harm to be minor and so acceptable and within "appropriate limits". Accordingly, policies in the Development Plan aimed at protecting the environment are complied with.

11.1.9 With this in mind, the Appeal Scheme benefits from the presumption in favour of sustainable development, whereby paragraph 11 of the NPPF indicates that development proposals that accord with an up-to-date development plan should be approved without delay.

11.1.10 Finally, there are other factors weighing in favour of the Appeal Scheme; these are the same eight points I have identified above in my consideration of VSC.

11.1.11 Turning to the positive side of the balance, there is "great weight" to be attached to mineral developments. I also attach substantial weight to the need to release new reserves as the landbank is below the minimum of 7 years for sand and gravel, which demonstrates that there is a shortfall in supply. I consider that there is a clear mineral need for the development which carries significant weight in favour of the scheme and is considered a VSC.

11.1.12 Therefore, in terms of need I consider there is:

- An established need;
- Which is not being met to the full extent required by the landbank;
- Which need would be still further under-supplied if the appeal was dismissed;

- Which can be substantially met if the appeal is allowed; and
- And which it has been shown, can be met well within environmental limits.

11.1.13 In terms of the need for inert waste disposal, the importation of inert materials as part of the restoration of the site will create a high-quality estate parkland setting which provides opportunities for living, leisure, recreation and enjoyment for local communities. Furthermore, there is an anticipated increase in inert waste likely to be generated from large infrastructure projects in north Worcestershire and the West Midlands over the next 10 years including the Lea Castle Village development. It has been agreed with the Council that the potential transport to and use of this material in the restoration scheme, aligns with the ethos of achieving sustainable development.

11.1.14 Having regard to the employment of 11 direct employees along with the significant contribution to the local economy, I consider that this constitutes a moderate benefit.

11.1.15 The restored quarry offers considerably enhanced habitat diversity with generally noticeable and significant local biodiversity benefits. It should also be noted that minerals extraction is a temporary land-use and that restoration of the extension together with the existing quarry area provides an opportunity to create a more diverse landscape feature.

11.1.16 It can be concluded that the benefits resulting from this proposed development are substantial and wide reaching. From an ecological / biodiversity perspective it is clear that this extension, as with the previous working areas, provides betterment. There is an expectation to restore to high standards, but the scheme has sought to offer biodiversity benefits and enhanced access, the latter would be phased in line with the workings. I consider the restoration and biodiversity benefits of the scheme to be a major benefit of the appeal proposal.

11.1.17 I consider that each of these factors add significant weight in favour of the Appeal Scheme.

11.1.18 Accordingly, it is my conclusion that the planning balance weighs heavily in favour of the Appeal Scheme.

11.1.19 In summary therefore and based on the evidence that I have presented, I conclude the following:

1. In relation to Green Belt the Appeal Scheme would preserve the openness of the GB and would not conflict with the purposes of including land within it, can be therefore be considered to be appropriate development in line with paragraph 150 of the NPPF;
2. This is partly so because impacts to the Green Belt are temporary and reversible and so are not permanent, with a high quality restoration scheme coming forward during the development;
3. Great weight is to be given to mineral development;
4. There is an urgent need for the release of mineral reserves in Worcestershire which the Appeal Scheme would provide;
5. The site is in a sustainable location to serve mineral and waste needs;
6. Even if the Appeal Scheme were found to be inappropriate, other considerations exist which would clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, so as to constitute VSC.

11.1.20 On this basis, I respectfully invite the Inspector to allow the appeal.

Appendix 1 - Summary of Officers Findings Relating to Key Planning Issues

Topic	Comment	Para Ref.
Worcestershire's Landbank or sand and gravel reserves	On 31 December 2017, the total permitted sand and gravel reserves for Worcestershire was about 3.465 million tonnes, which is equivalent to a landbank of approximately 6.06 years. Assuming annual sales figures of 0.572 million tonnes, based on the rolling 10 years' average continued, then the landbank of permitted reserves at 31 December 2020 would have been approximately 1.749 million tonnes of sand and gravel, equating to about 3.06 years. Consequently, on 31 December 2020 the County Council did not have sufficient reserves of sand and gravel available with planning permissions to meet its annual provision requirements based on sales in accordance with national planning policy and guidance. Since 31 December 2020, the MPA granted planning permission on 25 March 2021 (MPA Ref: 18/000036/CM, Minute No. 1069 refers) for a proposed sand quarry, infilling void using inert materials only with restoration to agricultural use together with new access, landscaping and associated works on land adjacent to former Chadwich Lane Quarry, Chadwich Lane, Bromsgrove, Worcestershire. Based on the proposed extraction of approximately 1.35 million tonnes, this has increased the landbank by approximately 2.36 years, equating to a landbank of approximately 5.42 years in total, which is still below the minimum landbank for at least 7 years for sand and gravel. Assuming annual sales figures of 0.572 million tonnes, based on the rolling 10 years' average continued in 2021, then the landbank of permitted reserves at 31 December 2021 would be approximately 2.527 million tonnes of sand and gravel, equating to about 4.42 years. Should this planning application be granted permission, it would increase the landbank by approximately 5.24 years, equating to a landbank of approximately 9.66 years, albeit it should be noted that sales of sand and gravel would have continued in 2022, so the landbank would be likely to be less than 9.66 years. The latest Aggregate Minerals Survey for England and Wales (dated 2021)… covers the period of 2019. The survey sets out that Worcestershire's sales of sand and gravel was approximately 648,000 tonnes in 2019. This demonstrates that sales in 2019 were above the 10-year average of sales from 2008 to 2017 and indicates there is likely to be an even lower landbank of sand and gravel in Worcestershire than that stated above. The proposal is considered to be consistent with paragraph 213 f) of the NPPF as it would contribute towards the MPA's landbank for sand and gravel.	370 371 372 373 374 380

Sieve test / methodology for BMV land	The Environmental Statement states that "the final restoration scheme would provide for approximately 32.26 hectares of BMV agricultural land, which would, therefore, be a loss of BMV agricultural land of approximately 8.94 hectares, where it would be restored with an alternative land use (acidic grassland, woodland planting and pocket parks). Therefore, the loss of BMV would be offset with a restoration scheme that provides for measurable net gains in biodiversity…however, all of the existing BMV soil profile comprising topsoil, subsoil and overburden would be placed for restoration. This in effect replicates the BMV agricultural land characteristics". Natural England originally commented that whilst some of the restoration proposals on part of the BMV agricultural land are for non-agricultural purposes (woodland), they considers the proposed reclamation to a biodiversity and amenity after use is acceptable, provided the methods used in the restoration and aftercare would enable the land to retain its longer-term capability to be farmed to its land classification potential, thus remaining a high quality resource for the future. …Therefore, there would be no permanent loss of BMV agricultural land. Furthermore, Natural England have been consulted and have raised no objections on agricultural land / soil handling grounds. Consequently, the Head of Planning and Transport Planning considers that refusal of planning permission on these grounds could not be justified. The development is located upon a Ground Source Protection Zone (Zone 3 – total catchment). This is considered in more detail in the 'Water Environment' section of this report, but it is noted that the Environment Agency have raised no objections, subject to appropriate conditions. Consequently, the Head of Planning and Transport Planning considers that refusal of planning permission on these grounds could not be justified. Whilst the Head of Planning and Transport Planning considers that the proposal would result in significant development of agricultural land, it is noted that if the soils are managed in accordance with the submitted Environmental Statement and accompanying appendix (Agricultural Land Classification and Soils) then the proposal would result in no adverse effects in terms of land conditions on the site, with the soil resource being conserved and the area of BMV agricultural land being reinstated as part of the final restoration of the site. As set out above Natural England have been consulted in respect of soils and BMV agricultural land and raises no objections. Based on this advice, the Head of Planning and Transport Planning considers that subject to the imposition of appropriate conditions	389 390 391 392 403 404 405

	relating to soil handling and placement including requiring the development being carried out in accordance with the 'Agricultural Land Classification and Soils Resource Report' and Defra's 'Good Practice Guide for Soil Handling', and requiring 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.	
Alternatives	…the applicant discounted the alternatives to extend the footprint and depth of the quarry. The applicant also considered an alternative method of conveying minerals from the proposed western extraction area across the site's internal track / bridleway WC-626 was considered. The alternative being a conveyor bridge. This was discounted by the applicant on visual and landscape grounds. Instead, the submitted scheme proposes a section of conveyor tunnel below ground, beneath bridleway WC-626. In relation to 'alternative restoration options' option, the applicant states that "the preparation of the proposed development scheme, including the restoration proposals, has been an iterative process. The company has given careful consideration to findings of the EIA work and the Development Plan. 433Two alternative restoration schemes were considered. Firstly, a sch434eme to restore the site back to original ground levels through the use435 of large volumes of imported inert materials. This was discounted436 on the grounds of both high numbers of vehicle movements and the slower delivery of progressive restoration. Secondly, a pure agricultural restoration scheme alternative was considered, with all land being restored back to commercial agricultural land uses with no additional public access. This alternative was discounted based upon the opportunity of diversifying the site land uses for amenity and wildlife enhancement". Instead, the proposal seeks to restore the site to an estate parkland setting which provides opportunities for living, leisure, recreation and enjoyment for local communities. A landscape to include a matrix of wildlife habitat and biodiversity enhancement and public connectivity via footpaths, bridleways and cycleways and pocket parks to enhance physical activity and wellbeing. In relation to 'alternative means of transport' option, the applicant states that "in terms of alternatives to road transport, the potential to transport the sand and gravel extracted at Lea Castle Farm by other alternatives is limited given the site's distance to both the existing rail network and the navigable waterway network - both of which would necessitate delivering aggregate by vehicle to the railhead / wharf. In this regard, the use of such transport methods is not considered to be feasible nor financially viable".	432 433 434 435 436 437 438 439

	In terms of accessing the site, the applicant had considered alternative access points to the site, but the proposed access was selected as part of an iterative design process. In view of the above, the Head of Planning and Transport Planning considers that the applicant's approach to the consideration of alternatives is acceptable in this instance.	
Green Belt	Minerals can only be worked where they are found, and mineral working is a temporary use of land. Paragraph 150 of the NPPF identifies certain forms of development as not inappropriate development within the Green Belt, this includes mineral extraction and engineering operations, "provided they preserve its openness and do not conflict with the purposes of including land within it". …Subsequently, in February 2020, the Supreme Court in R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3 generally supported the Turner decision but provided further analysis of openness: *"The concept of "openness" in paragraph 90 of the NPPF [2012 version] seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: "to prevent urban sprawl by keeping land permanently open …". Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As Planning Policy Guidance 2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land", and: "[Openness] is a matter not of legal principle but of planning judgement for the planning authority or the inspector".* The applicant is proposing a number of visual mitigation and enhancement measures, which include only extracting mineral from the identified more enclosed and contained visual landscape in the eastern and central / eastern areas of the site, use of temporary soil storage / screening bunds (seeded and maintained) to screen potential views of quarrying activities together with agricultural straw bales, distance standoffs from residential properties including the Bungalow and Castle Barns, and tree and shrub planting to help both visually screen and integrate the proposed development. It is also proposed to limit the actual area of disturbed land / quarrying activities through phased progressive extraction and restoration,	446 448 453 455 458 459 461 462

	ensuring that the area of land required for the processing plant site and mineral extraction land would be contained to below 10 hectares during any one phase. In terms of the duration of the development, the applicant estimates that extraction and restoration works would only take approximately 11 years to complete, which is relatively modest in the context of mineral operations. On completion of the infilling, the ancillary site infrastructure would be uplifted and removed, with the site being restored. As such, the Head of Planning and Transport Planning considers that there would be no permanent spatial or visual impact on the Green Belt. In view of the above, on balance, the Head of Planning and Transport Planning considers that the proposed development, including restoration to a lower level, access, haul road, bunds, mineral processing plant, ancillary facilities and activity associated with the proposed mineral extraction when considered in isolation and in combination with other developments would preserve the openness of the Green Belt. It is also considered that the proposal would not conflict with the fundamental aim of Green Belt policy or the five main purposes of Green Belt. Whilst the proposal would be visible, it would not be very visible due to the topography, proposed temporary soil storage / visual screening bunds, existing historic boundary walls and proposed planting, with any views being contained to relatively few receptors. It is considered that the visual impact on openness does not make this development "inappropriate". Neither would the development result in urban sprawl… It is considered that the proposal is in line with any typical mineral development in the Green Belt, and it is assessed that this site should benefit from the exceptions that are clearly provided for in the NPPF for mineral sites. There would be impacts, but only of a temporary duration, and relatively short for mineral extraction, with an appropriate restoration programme, back to a beneficial status in the Green Belt. The NPPF clearly envisages that mineral extraction should benefit from the exemption in paragraph 150, and this proposal should benefit from those exemptions as it comes within the intended scope. In view of above, the Head of Planning and Transport Planning considers that the exceptions for mineral extraction and engineering operations at paragraph 150 of the NPPF would apply, and the proposed development is, therefore, not inappropriate development in the Green Belt.	
Traffic, highway safety and impact upon	The County Highways Officer has been consulted and raised no objections subject to appropriate conditions regarding implementation of submitted details relating to access, parking and	496 497 498

public rights of way	turning facilitates; provision and maintenance of visibility splays; surfacing of first 5 metres of access from the public highway; provision of electric vehicle charging space, sheltered and secure cycle parking, and accessible car parking spaces; and a HGV Management Plan. The County Highways Officer states that they have undertaken a robust assessment of the planning application. Based on the analysis of the information submitted and consultation responses from third parties, the County Highways Officer concludes that there would not be a severe impact and, therefore, there are no justifiable grounds on which an objection could be maintained, subject to imposition of appropriate conditions. With regard to highway safety, the County Highways Officer states that access visibility is acceptable. The access has been subject to a Stage 1 Road Safety Audit. The access layout has been accepted as being suitable, however the layout would still be subject to further review at the detailed design stage prior to full technical approval. With regard to the review of accident data, the County Highways Officer states that they accept that there is no common factor or patterns to the collisions recorded, and they occurred in both dry and wet conditions and at different times of the day, with causation factors that varied from poor due care and attention, driver error and poor judgement at the traffic signal junction. The Head of Planning and Transport Planning notes that the District Council highlight the Transport Statement has not taken account of the mixed-use development at the former Lea Castle Hospital site. However, as indicated above, the Transport Statement has taken into account the cumulative impact from nearby developments, including the mixed-use development at the former Lea Castle Hospital site. It is also noted that the County Highways Officer has considered the proposal taking into account development traffic associated with committed developments in the local area. The County Highways Officer states an improvement scheme at the A449 traffic signals junction has been identified as part of the Lea Castle Hospital planning application. The Transport Assessment for that development indicates that the development will open in phases with 45 dwellings constructed each year until 2031. As such the planned development may not be generating full traffic flows until 2031 for which the improvement scheme has been identified. The improvement scheme will only provide additional capacity in this location. Given that the peak hour trips associated with the proposed quarry generate low volumes and are temporary, in another words generate traffic over a 10-year development cycle, it is considered that proposals would not have a material impact on the local or wider highway network. The County Highways Officer is, therefore, satisfied the development traffic can be accommodated within the existing highway infrastructure.	499 501 509 514 515 521 522

	During the Initial Works Phase of the proposal, a new bridleway would be provided. It would connect bridleway WC-625 in the north-eastern area of the site on a new route along the north-eastern, eastern, southern and south-western boundaries of the site, connecting to proposed upgraded bridleway WC-624, creating a circular route. The proposed new bridleway route would measure approximately 2.3 kilometres in length. The applicant states that this new section of bridleway would cross the proposed site entrance. At this point, traffic and footpath management measures would be in place. The new bridleway would be in place throughout the duration of the phased working and restoration of the site. A kissing gate (foot access only) would be provided adjoining Wolverhampton Road (A449). The Ramblers Association and Malvern Hills District Footpath Society raise no objections to the proposal stating they are content with the revised public rights of way proposals. The Open Space Society have made no comments, and Sustrans comments that the proposal does not interact with the National Cycle Network, but the canal to the west of the site could be improved to form an extension to National Cycle Network Route 54 from Kidderminster. Any development funds from this site to fund the canal towpath improvements would be a benefit to the community. The Head of Planning and Transport Planning considers that as the proposal would not directly impact National Cycle Network Route 54 as noted by Sustrans, and the proposal is not considered to have an unacceptable impact upon the Canal and its associated Conservation Area as set out in the 'Historic Environment' section of this report. In view of this, it is considered that the request from Sustrans would not pass the tests of Planning Obligations (necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development). …The Head of Planning and Transport Planning acknowledges the request of the British Horse Society to upgrade footpath WC-623 but considers that there are considerable site constraints and practicalities of upgrading this route to bridleway status, as highlighted by the County Footpath Officer. The Head of Planning and Transport Planning considers that the development as proposed would protect and enhance the public rights of way network and the requested upgrade is not necessary to make the development acceptable in planning terms. Furthermore, the requested upgrade would likely have environmental impacts which have not been assessed as part of the application, including impacts upon the retained boundary woodlands. In view of the above, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact	

	upon traffic, highway safety or public rights of way, in accordance with…	
Residential amenity	With regard to noise impacts, Worcestershire Regulatory Services raise no objections commenting that the submitted Noise Assessment Report conforms with national guidance in relation to noise and mineral extraction and that the measured noise levels and calculated predictions are robust…Notwithstanding this, Worcestershire Regulatory Services do raise concerns with regard to the overall amenity in the area and, therefore, recommend the imposition of a condition restricting operating hours to 08:00 to 18:00 hours Mondays to Fridays and 08:00 to 13:00 hours Saturdays with no working on Sunday, Bank or Public Holidays. A condition is recommended to this effect. In view of the above, the Head of Planning and Transport Planning considers that subject to the imposition of appropriate conditions that the proposal would not have an unacceptable noise impact. The Environment Agency have made no adverse comments in respect to noise, dust and air quality impacts, and have confirmed that applicant would be required to operate the infilling element of the scheme under an Environment Agency Environmental Permit, which would likely include requirements to undertake monitoring to assess any potential impact on the environment and local receptors. The Head of Planning and Transport Planning notes that an Environmental Permit would regulate and control matters such as waste acceptance, including quantity; emissions, including noise, dust and vibration; and monitoring, records and reporting in relation to the infilling operations. The Environment Agency state that in relation to pollution issues arising from the extraction phase, they recommend that the MPA consults Worcestershire Regulatory Services. Worcestershire Regulatory Services have raised no objections in respect to air quality and dust impacts, stating that they are satisfied with the submitted Dust Impact Assessment's methodology and conclusions, and recommended that the mitigation measures set out in the Dust Impact Assessment are conditioned… In response to letters of representation raising concerns regarding adverse dust and health impacts, Worcestershire Regulatory Services reviewed the comments and reiterated that they are satisfied with the development's onsite dust and noise impact strategy, and as long as Worcestershire Regulatory Services' recommendations are appropriately conditioned, they consider that the strategy should be strong and flexible enough to deal with any subsequent issues. They have also confirmed they have no objections to the Dust Management Plan to include dust monitoring.	540 541 562 563 565 571 573 578 579

	…With regard to omitting housing, Worcestershire Regulatory Services are satisfied that the distance between the proposed quarry and the new developments at Lea Castle, Sion Hill and Cookley are such that the impact of dust on these developments would not be significant,... In response to comments from local residents, Worcestershire Regulatory Services re-confirmed that they are satisfied that the impact of HGV movements would not have a significant impact on air quality in the area on the basis that all HGV traffic would enter and exit the site from the A449 junction and away from Wolverley and Sion Hill. Based on the above advice, the Head of Planning and Transport considers that subject to the imposition of appropriate conditions, the proposed development would not have an unacceptable dust and air quality impact. The Head of Planning and Transport Planning also considers that, due to the nature of the proposal, it would not give rise to adverse odour impacts or pests. The County Public Health Practitioner has been consulted and has no objections stating that a full HIA was submitted addressing their recommendations. The UK Health Security Agency (formerly Public Health England) refer the MPA to Worcestershire Regulatory Services to comment in relation to public health from local air quality, noise and contaminated land as they are only a statutory consultee on Environmental Permits from the Environment Agency, and will, therefore comment at that stage. The Head of Planning and Transport Planning considers that subject to the imposition of appropriate conditions, the proposal would not have an unacceptable impact upon human health or wellbeing of the local population.	
Landscape character and appearance of the local area	In response to the original comments from the County Landscape Officer and Hereford and Worcester Gardens Trust requesting the protection measures for the avenue of trees, in particular the proximity of proposed bunds, the applicant submitted a detailed drawing demonstrating the proposed bund would be set back from the root protection zone of the trees within the avenue. The applicant also confirmed that the avenue of trees would be protected in accordance with BS 5837:2012 'Trees in Relation to Design, Demolition and Construction'. The County Landscape Officer has been consulted and raises no objections to the proposal, subject to the imposition of conditions requiring the implementation of a CEMP, LEMP and longer-term aftercare scheme.	620 621 624 625 628 629

	The Hereford & Worcester Gardens Trust raise no objections to the proposal stating that they are satisfied that their previous concerns (which included clarification regarding the timing of planting, visual impact of restored landform, consider the avenue should be planted with a single tree species, oak added to the planting specification for hedgerows, beating up of hedgerows (replacing trees which have died) and planting of additional parkland trees) have now been addressed. The Head of Planning and Transport Planning notes the concerns of local residents, Wyre Forest District Council and the CPRE regarding the visual impact of the proposal, particularly the eastern section of the site; and the CPRE's comment that extraction from the slope above A449 would have a considerable landscape impact. However, the Head of Planning and Transport Planning concurs with the conclusions of the LVIA, noting the proposed mineral extraction would be effectively screened from views from the former Lea Castle Hospital site and Wolverhampton Road (A449) by a combination of the existing topography, proposed visual screening bund, which would measure approximately 4 to 5 metres high (and would be farmed) and the advance planting. It is also noted that the field immediately adjacent to Wolverhampton Road (A449) although contained within the redline boundary, no mineral extraction or development is proposed within this area. The Head of Planning and Transport Planning considers that should planning permission be granted, conditions should be imposed requiring a long-term aftercare period; restoration scheme; phasing; detailed design of plant, structures and buildings; limiting height of stockpiles; details of boundary treatments; details of soil screening bunds and hay bales; lighting scheme; annual topographical survey; CEMP for biodiversity; BEMMP; LEMP; and interpretation scheme for landscape. In view of the above and based on the advice of the County Landscape Officer and Hereford and Worcester Gardens Trust, the Head of Planning and Transport Planning considers that the proposed development would not have an unacceptable impact upon the character and appearance of the local area, including views from public rights of way, in accordance with Policies WCS 9 and WCS 12 of the adopted Worcestershire Waste Core Strategy, and Policies SP.20, SP.22, SP.28, DM.24 and DM.26 of the adopted Wyre Forest District Local Plan, subject to the imposition of appropriate conditions.	
Historic environment	…Wyre Forest District Council Conservation Officer has subsequently raised no objections to the proposal, stating that the assessments have identified and described the significance of the various heritage assets and is thus in accordance with the NPPF. The Conservation Officer states that he has no issues with the assessment criteria or the conclusions of the assessment in general. However, with regard	651 652 655 660 663 668

	to noise and dust and other environmental impacts upon the Conservation Area, the Conservation Officer raises no objections subject to the relevant technical consultees also raising no objections to the proposal. The Head of Planning and Transport Planning notes that the Environment Agency and Worcestershire Regulatory Services both raise no objections to the proposal, subject to the imposition of appropriate conditions. Based on this advice, the Head of Planning and Transport Planning considers that the proposal would not harm the significance of the designated heritage of the Staffordshire and Worcestershire Canal Conservation Area. In view of the above matters, the Head of Planning and Transport Planning considers that the proposals would lead to 'less than substantial' harm to the significance of the designated heritage asset of North Lodges and Gateway to Lea Castle. Notwithstanding this harm is less than substantial, the harm must still be given considerable importance and weight, and considerable weight must be given to the desirability of preserving the setting of the designated heritage asset. Consequently, the fact of harm to a designated heritage asset is still to be given more weight than if it was simply a factor to be taken into account along with all other material considerations. Having given special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Section 66), and paragraph 202 of the NPPF, it is considered that subject to the imposition of a number of appropriate conditions including a progressive phasing scheme; restoration schemes; long-term aftercare period; LEMP; restricting the working hours; requiring the permission to be restored within a set timescale; lighting details; noise and dust management plans; and interpretation scheme for historic environment, that on balance, in view of the public benefits of the proposal, namely the creation of a small number of direct employment opportunities (approximately 11 employees), as well as contributing to the wider growth aspirations for the County through the supply of local aggregates to the construction market, that this outweighs the temporary and less than substantial harm to the designated heritage asset. In respect to archaeological impacts, the County Archaeologist has no objections to the proposal, subject to the imposition of appropriate conditions including a programme of archaeological work. In response to Wolverley and Cookley Parish Council's comments regarding the historic boundary wall, the applicant has confirmed that the wall's structural integrity has been assessed and is considered safe. There are sections of the wall where upper brick courses have been removed. The landowner has confirmed that these sections would be repaired, separate to this application. Based	670

	on the advice of the County Archaeologist, a condition is recommended to be imposed requiring a scheme for the removal, protection and reinstatement of the historic boundary wall. The Hereford and Worcester Garden Trust have no objections to the proposal stating that they are satisfied that their previous concerns (which included clarification regarding the timing of planting, visual impact of restored landform, consider the avenue should be planted with a single tree species, oak added to the planting specification for hedgerows, beating up of hedgerows (replacing trees which have died) and planting of additional parkland trees) have now been addressed. In view of this, the Head of Planning and Transport Planning considers that the proposed development would not have an unacceptable adverse impact upon heritage assets, in accordance with Section 16 of the NPPF, Policy WCS 9 of the adopted Worcestershire Waste Core Strategy, and Policies SP.20, SP.21, DM.23 and DM.28 of the adopted Wyre Forest District Local Plan, subject to the imposition of appropriate conditions.	
Ecology, biodiversity and geodiversity	In view of the above, the Environment Agency and Natural England raised no objections subject to the imposition of appropriate conditions, which include a groundwater, surface water and quality monitoring scheme, and maintenance of the proposed soakaways in perpetuity. The Head of Planning and Transport Planning also recommends the imposition of a condition requiring details of pollution control measures and pollution intendent response procedures. …The County Ecologist concludes by raising no objections, stating that impacts from mineral working which may potentially adversely impact dormice (if present here), could be reasonably controlled through an appropriate avoidance or mitigation strategy. Conditions are recommended to this effect. The Head of Planning and Transport Planning also notes that neither Worcestershire Wildlife Trust nor Natural England have raised objections regarding dormice. Worcestershire Wildlife Trust have no objections to the proposal, welcoming the submitted restoration strategy, and wish to defer to the opinions of the County Ecologist for all other on-site biodiversity issues. They recommended the imposition of conditions regarding a CEMP, LEMP, lighting scheme, SuDS, and noise and vibration management plans. The County Ecologist has no objections to the proposal, subject to the imposition of conditions requiring a CEMP, LEMP, monitoring and control of groundwater and surface water, lighting strategy, Dust Mitigation Strategy, BEMMP, and long-term aftercare scheme.	693 700 724 737 738 739 740 742 761 762 763 764

	Wyre Forest District Council Tree Officer also objects to the proposal from an arboricultural and landscape perspective, as the proposal would require a number of mature trees to be removed. The Tree Officer acknowledges that tree T22, is now proposed to be retained but does not consider that this is a workable solution. Should planning permission be granted the Tree Officer recommends the imposition of a condition requiring an Arboricultural Method Statement and an Arboricultural consultant retained for Phases 1 to 3 to prevent unnecessary damage to retained trees. The County Landscape Officer noted the comments from the District Council's Tree Officer in respect of tree T22 but is reassured that the proposed stand-off would provide a satisfactory buffer and, therefore, has no further concerns regarding the protection of this tree. The County Landscape Officer also welcomes measures aimed at ensuring the retention and protection of trees T4 T5, T19, T22 and T25, and recommends the imposition of appropriate conditions to adequate root protection zones. It is noted that Worcestershire Wildlife Trust have no objections to the principle of the proposal and are pleased to note that tree T22 is now proposed to be retained with an appropriate buffer. They are now content that the tree can be retained and protected in line with current guidance. The Woodland Trust comment that they welcome the retention of the veteran tree T22, and the root protection zone and protection measures proposed in line with Natural England's Standing Advice. As such they consider their original concerns regarding the protection of tree T22 have been addressed. In view of the above, the Head of Planning and Transport Planning is satisfied that, subject to the imposition of appropriate conditions, the trees proposed to be retained, including veteran trees would be protected for the life of the development, with appropriate tree root protection zones, in accordance with Natural England's standing advice. …In view of the above, the Head of Planning and Transport Planning considers that no likely significant effects, including cross-boundary effects upon European sites are anticipated either alone or in-combination. With regard to geology, the Hereford and Worcester Earth Heritage Trust has no objections to the proposal, but requests that the applicant be required to provide access to the site for geologists to support investigation and recording of the geological features, vigilance on the part of the operator to identify fossils and fossiliferous material, and an information board in relation to the geology of the site be provided	

	In view of the above, the Head of Planning and Transport Planning considers that subject to the imposition of appropriate conditions, the proposed development would not have an unacceptable adverse impact upon ecology, biodiversity and geodiversity at the site or in the surrounding area, including European sites, and would protect, conserve and enhance the application site's value for biodiversity and geodiversity. The Head of Planning and Transport Planning considers that the proposed development accords with Polices WCS 9 and WCS 10 of the adopted Worcestershire Waste Core Strategy, and Policies SP.22, SP.23, SP.24, SP.28, DM.24 and DM.26 of the adopted Wyre Forest District Local Plan.	
Water environment	The Environment Agency recommend that the MPA consult the Lead Local Flood Authority in respect of surface water management and matters associated with ordinary watercourses / ditches / groundwater flooding during the operation and post restoration of the site. Natural England have no objections, subject to the imposition of conditions regarding groundwater monitoring scheme and maintenance of the proposed soakaways in perpetuity. North Worcestershire Water Management (on behalf of the Lead Local Flood Authority) have raised no objections to the proposal, subject to the imposition of conditions requiring a detailed surface water drainage scheme and associated maintenance scheme. North Worcestershire Water Management conclude that their previous comments have been sufficiently addressed and that in their opinion there are no reasons to withhold approval of this application on flood risk or water management grounds, subject to the imposition of appropriate conditions. Severn Trent Water Limited has raised no objections to the proposal, as the proposal would have minimal impact on the public sewerage system. In respect of groundwater and impacts upon active Severn Trent Water Limited's sources, they recommended the imposition of a condition requiring groundwater monitoring, as recommended by the Environment Agency. Based on the advice of the Environment Agency, Natural England, North Worcestershire Water Management and Severn Trent Water Limited, the Head of Planning and Transport Planning considers that the proposal would have no adverse effects on the water environment, subject to the imposition of appropriate conditions. The Head of Planning and Transport Planning considers that the proposed development accords with Policy WCS 10 of the adopted Worcestershire Waste Core Strategy, and Policies SP.29, SP.30,	798 799 800 801 802 803

	SP.31, SP.32 and SP.33 of the adopted Wyre Forest District Local Plan.	
Restoration and aftercare of the site	The Head of Planning and Transport Planning considers that given the nature of the proposed working, which would extract minerals to a maximum depth of 18 metres, in principle the restoration of the site by the importation of inert materials is acceptable in this instance, and the risk of a lack of availability of suitable fill materials can be satisfactorily addressed by the imposition of appropriate conditions relating to progressive working and restoration schemes, annual topographical survey, and long-term aftercare scheme. This would ensure that there was limited disturbed land at any one time, and the site is restored at the earliest opportunity and to high environmental standards. A condition is also recommended requiring the site to be restored within 11 years of commencement of the development. Worcestershire Wildlife Trust, the County Landscape Officer, Hereford and Worcester Gardens Trust and the County Ecologist have both requested a longer-term aftercare and maintenance. In particular the County Ecologist has requested a 30-year aftercare scheme, stating a number of proposed habitats have been identified with 'high' or 'very high' difficulty for creation, with a time to target condition of 30 plus years. The applicant has agreed to this longer-term aftercare scheme. The Head of Planning and Transport Planning recommends the imposition of a condition requiring a 30-year aftercare period, should planning permission be granted. In view of the above matters, the Head of Planning and Transport Planning considers that the proposal is in accordance with Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. The application proposes progressive restoration over a total of 6 phases, and it is not considered that 11 years to restore the site is very long-term in the context of mineral extraction and restoration. The development does not propose a novel approach or technique to mineral extraction or restoration, and the Head of Planning and Transport Planning has no reason to believe that there is a likelihood of financial or technical failure. Therefore, it is not necessary for the MPA to seek a financial guarantee in this instance.	821 822 821
Economic impact	The Head of Planning and Transport Planning acknowledges that the NPPF affords significant weight to the need to support economic growth and notes that paragraph 209 of the NPPF states that "it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs". Paragraph 216 of the NPPF also states that "when determining planning applications, great weight should be given to the benefits of the mineral extraction, including to the economy". It is considered that the proposal would provide a small number (up to 11 full-time equivalent jobs) of direct employment opportunities, together with indirect employment opportunities, as well as contributing to the	840

	wider growth aspirations for the county through the supply of local aggregates to the construction market. Therefore, it is considered that the proposal would provide substantial sustainable economic growth benefits to the local economy in accordance with the NPPF and this weighs in its favour.	
Climate Change	It is acknowledged that Wyre Forest District Council declared a climate emergency in May 2019 and also that Worcestershire County Council declared a climate emergency in July 2021 and a commitment to tackle its own impacts on climate change through the Worcestershire County Council Net Zero Plan (2020). The Head of Planning and Transport Planning notes the restoration scheme would contribute to tackling climate change through the planting of approximately 9,750 woodland trees, 50 parkland trees, 120 avenue trees, and the planting and strengthening of existing hedgerows, measuring approximately 1,018 metres long, and the creation of approximately 7.5 hectares of acid grassland, resulting in plus 87.21% net gain for biodiversity. SuDS features would be provided on site, which are designed to take into account the impacts of climate change, ensuring no surface water discharges form the site. Public access would be enhanced, improving access between Wolverley, Cookley and the former Lea Castle Hospital mixed-use development site. Given that it is considered the proposal is well located close to the potential markets it would serve; located close to the primary road network; the applicant would seek to utilise backloading of vehicles to reduce vehicle movements where possible; the proposal would upgrade existing and create new public rights of way; the restoration scheme would make provision for SuDS and extensive tree, woodland and habitat creation, the Head of Planning and Transport Planning considers that overall, the proposal would contribute to mitigating and adapting to climate change, in accordance with Policy WCS 11 of the adopted Worcestershire Waste Core Strategy and Policy SP.37 of the of the adopted Wyre Forest District Local Plan.	844 849 855
Cumulative effects	…It is also noted that the County Highways Officer has considered the proposal taking into account development traffic associated with committed developments in the local area. The County Highways Officer states an improvement scheme at the A449 traffic signals junction has been identified as part of the Lea Castle Hospital planning application. The Transport Assessment for that development indicates that the development will open in phases with 45 dwellings constructed each year until 2031. As such the planned development may not be generating full traffic flows until 2031 for which the improvement scheme has been identified. Given that the peak hour trips associated with the proposed quarry generate low volumes and are temporary (over 10 years), it is considered that proposals would not have a material impact on the local or wider highway network. The County Highways Officer is,	868 869 872

	therefore, satisfied the development traffic can be accommodated within the existing highway infrastructure. In terms of potential air quality impacts from traffic movements on the local road network, an Air Quality Impact Assessment accompanied the application and demonstrates that the Air Quality Objectives would not expect to be exceeded. In view of this, the Environmental Statement concludes that the potential for simultaneous cumulative effects is considered negligible. 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.	
Prematurity	Letters of representation have been received objecting to the proposal on the grounds of prematurity, in particular the proposal coming forward before the adoption of the emerging Minerals Local Plan and emerging Mineral Site Allocations DPD. As set out earlier, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraphs 48 to 50 of the NPPF sets out how weight may be given to policies in emerging plans, and the limited circumstances in which it may be justified to refuse an application on the basis that it is premature... The NPPF goes onto state that "refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process" (paragraph 50). This is reiterated within the PPG Paragraph Reference ID: 21b-014-20190315. In view of the above, it is the Head of Planning and Transport Planning's view that from the date of the Inspectors' Report until adoption by resolution of full Council the emerging Minerals Local Plan should be given substantial weight in development management terms in the determination of planning applications, including this application. The Head of Planning and Transport Planning considers that on the whole, the proposal is broadly in accordance with the emerging Worcestershire Minerals Local Plan. It is considered that as the emerging Mineral Site Allocations DPD is at an early stage of preparation, and has not been subject to	873 874 876 880 881 882 883

	consultation, tested at examination or adopted by the County Council, that it should be given very limited weight in the determination of this application. In view of the above, the Head of Planning and Transport Planning considers that refusal of planning permission on the grounds of prematurity could not be justified in this instance.	

Appendix 2 – Cumulative Impact Assessment

1 Assessment Methodology – Cumulative Impact

1.1.1 Cumulative impact assessment does not have a dedicated section within the NPPF. However, the consideration of cumulative effects from a development is referred to and required when evaluating the environmental impact of a development proposal. In regard to minerals development, NPPF paragraph 210 (f) states that planning policies should 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.

1.1.2 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".

1.1.3 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".

1.1.4 What constitutes a robust assessment of cumulative effects has been considered by the High Court in the case of *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. The case, known as the 'Long Moor judgement', was heard before Mr Justice Burton and was focused around the Secretary of State's granting of planning permission upon appeal for surface coal mining at UK Coal's Long Moor site in Leicestershire.

1.1.5 The background to the case was that Leicestershire County Council (the Mineral Planning Authority or MPA) had originally refused planning permission on the grounds of cumulative impact. At appeal (where Heatons represented the Appellant)

the Inspector and the Secretary of State accepted that none of the individual effects was of sufficient dis-benefit to justify the refusal of permission and accepted that in the absence of a further 'proper assessment', there was nothing to suggest that the cumulative impact was such as to warrant the refusal of permission.

1.1.6 When the decision was challenged in the High Court, Mr Justice Burton criticised the MPA's evidence as being based on conclusions which were simple value judgements (my emphasis), with no supporting reasons. Importantly, he concluded that reasons underpinning any conclusions on cumulative effects must be provided by the MPA if an assessment is to be considered 'proper' in the context of MPS 2 Minerals policy statement 2: controlling and mitigating the environmental effects of minerals extraction in England, which was superseded by the NPPF in 2012. In paragraph 41 of his judgement he gives examples of such reasoning as including:

1. Even though each individual area of potential impact was not objectionable yet each such feature was close to objectionability that, although none could be said to be individually objectionable, yet because each was nearly objectionable, the totality was cumulatively objectionable; or
2. One, two, three or four of the particular features were close to being objectionable and that would be an important matter to take into account when looking at the totality; or
3. One particular combination of two or three otherwise unobjectionable features could cause objectionability in their totality; or
4. As was specifically addressed by the Interested Party and by the Inspector here, and found not to be the case, there could be some unusual feature or some unusual combination of features such as to render the combination objectionable when the individual feature was not.

1.1.7 The judgement of Mr Justice Burton therefore provides guidance as to how levels of objectionability should be assessed and how they might be considered in combination.

1.1.8 Following on from this case the Secretary of State granted planning permission on appeal in respect of the 'Telford case' (Huntington Lane) which involved a proposal by UK Coal to extract 900,000 tonnes of coal and 250,000 tonnes of fireclay near Telford. The Planning Inspector in this case considered that *"There are three categories of cumulative impact in which to consider as referred to in paragraph 12*

of MPS2: namely (i) successive effects (ii) simultaneous effects from concurrent developments, and (iii) combined effects from the same development."

1.1.9 The methodology for assessing cumulative impact in regard to this proposal therefore takes account of the above cases and specifically adopts the approach taken by the Inspector in the Telford case. This methodology has also been approved by the Secretary of State.

1.1.10 Accordingly, this assessment of cumulative effects will have regard to:

i. successive effects;

ii. simultaneous effects from concurrent developments, and

iii. combined effects from the same development.

1.1.11 It is proposed that the first and second elements of cumulative impact (successive and simultaneous effects from concurrent developments) are considered in parallel given that this assessment requires the identification of previous and new minerals developments in the locality (as well as other forms of development that might give rise to similar types of impact). The third element, combined effects from the same development, will be considered separately and will have regard to how potentially close each individual environmental impact is to being unacceptable or objectionable. This then enables a professional judgement to be made on the potential accumulated totality (i.e. the judged acceptability or otherwise of their combined environmental effect).

1.1.12 Regard will also be had to the potential for the proposal to give rise to a series of benefits (positive impacts) which could potentially offset or outweigh any harm which might be brought about by the proposed development. In this regard the cumulative impact assessment will therefore consider the potential cumulative benefits of the scheme.

2 Successive and Simultaneous Effects

2.1 Introduction

2.1.1 As part of the 'proper assessment' of the cumulative impacts of the proposal it is necessary to consider the potential successive and simultaneous effects of mineral development on the general locality. In geographical terms, the Appellant has taken

the 'general locality' as a radius of 1km from the centre of the proposed site representing a reasonable distance.

2.1.2 The assessment of successive and simultaneous effects considers the potential cumulative impact of past and potential future mineral workings on the local community. It also has regard to similar types of operations such as waste management developments and construction sites.

2.1.3 In terms of the simultaneous effects of concurrent developments, an assessment of existing mineral development (and other similar operations) in the study area has been carried out to consider the potential cumulative impact on the locality. The one obvious existing development is the current Lea Castle Village and wider allocation which is considered below in relation to both successive and simultaneous effects.

2.2 Successive Effects

2.2.1 Historically, the site formed a part of the c.220ha grounds of Lea Castle, which was built around 1762 and demolished in 1945. There has also been a number of applications submitted at the site over the years, in particular, planning applications for the construction of golf courses (one 18-hole and one 9-hole golf courses), with the first submitted to Wyre Forest District Council in March 1999 (ref. WF/0260/99). This application (WFDC) was refused at Planning Committee on 14th March 2000 and a subsequent appeal was withdrawn. However, an application (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'. This planning permission was never implemented.

2.2.2 Consideration of the cumulative impact of the proposed development alongside the existing land uses in the direct vicinity of the Site has led to the conclusion that there are no land uses in the locality of the Site that have the potential to result in significant adverse effects on nearby receptors, when combined with the anticipated impacts of this proposal.

2.2.3 The proposed development will therefore not be adding to an existing problem. The proposed development is driven by the geological prospects together with the

identified need in both adopted and emerging Minerals Local Plan Policy for the provision of a viable and high quality mineral.

2.2.4 As demonstrated within the Environmental Statement, the proposed development is environmentally acceptable, and the restoration proposals provide environmental benefits.

2.2.5 In light of the above, the successive impacts of the proposal are considered to be negligible.

2.3 Simultaneous Effects

2.3.1 In terms of mineral development, there are no mineral/mining related development in close proximity to the proposals at Lea Castle Farm which would be considered to have a simultaneous cumulative impact upon local receptors.

2.3.2 In terms of other types of development that could have a concurrent effect, to the east of the site on the opposite side of Wolverhampton Road, there is an allocation for around 1,400 dwellings (600 of these already have planning permission under 17/0205/OUTL) with a mix of employment and retail provision and known as Lea Castle Village. Development has commenced on the development of planning permission 17/0205/OUTL. In terms of the remaining 800 dwellings of the above allocation, an application was submitted in May last year (Ref: 22/0404/OUT) and is under determination.

2.3.3 Although planning application ref: 22/0404/OUT has not received the grant of planning permission, the development of the site has the potential to create new sensitive receptors and could also give rise itself to potential environmental impacts on existing receptors during the construction phase. Such impacts could potentially occur in conjunction with the development/operation of the proposed Lea Castle Farm development.

2.3.4 The main environmental effects that could arise from the housing site being constructed at the same time as the proposed development of Lea Castle Farm are noise, dust and visual impacts. The other impact that could contribute cumulatively to impact in the locality is construction traffic, which may combine with HGV traffic generated by the Lea Castle Farm site.

2.3.5 The potential housing development would be physically separated from the Lea Castle Farm site by both soil and overburden mounds along with Wolverhampton

Road. In terms of impacts it is considered that the combined effect of both developments taking place concurrently would only marginally increase the degree of overall impact and therefore would not give rise to objectionable concurrent effects. The potential housing development would be over 200m from the proposed extraction area. The impacts upon this site have been assessed as part of this Appeal. There are no unacceptable impacts assessed to arise from the proposals upon the existing or potential housing development.

2.3.6 It is noteworthy, that on review of the supporting documents submitted for planning application ref: 22/0404/OUT, there is no form of consideration for cumulative impacts from the Lea Castle Farm development. The Landscape and Visual Appraisal prepared by Wood does make reference to the Appeal development at paragraph 3.5.4 and states the following:

The Lea Castle Farm Sand and Gravel Quarry application (application reference 19/000053/CM) is currently under consideration with WCC. This site covers a 46 ha area comprising 26 ha of mineral extraction located approximately 25 m west of the Wider Site. If granted, this development would result in a number of new landscape and visual components being introduced across the site. The conclusions of the Landscape and Visual Impact Assessment (LVIA) for the Quarry application was that "the landscape and visual effects resulting from the Proposed Development would be temporary, progressive and localised and Not Significant. Progressive restoration to the post restoration scheme provides opportunities for both enhanced landscape, visual and amenity and wellbeing which will result in Beneficial effects."

2.3.7 The above does not challenge the findings of the LVIA (CD1.04) and it can be assumed from the lack of challenge and consideration of the Appeal development, that the technical experts for application ref: 22/0404/OUT consider that no unacceptable impacts will arise from the proposals upon the potential housing development.

3 Combining the Potential Impacts

3.1 Introduction – Approach to Potential Levels of Objectionability

3.1.1 All mineral developments produce effects that occur together and their combined impact can potentially give rise to significant impacts. In terms of the methodology for assessing cumulative environmental effects from such operations this section

follows the approach taken by the Planning Inspector in the consideration of UK Coal's surface mining operation at Huntington Lane, Telford. The Inspector's approach in regard to this was subsequently endorsed by the Secretary of State on 6th October 2009.

3.1.2 In paragraph 552 of the Inspector's Report into the Telford proposal he noted "*For individually acceptable impacts to be elevated together to unacceptable impacts, they must have a synergistic effect*". In order to assess the combined effects properly it is necessary to consider whether some or all of the individually acceptable effects are so close to being unacceptable, that when combined together, the totality is unacceptable. In this regard the approach set out by Mr Justice Burton is considered appropriate to follow, the methodology of which is outlined above.

3.1.3 The potential benefits of the proposal are also identified so that they can be combined allowing the cumulative assessment to balance both positive and negative effects.

3.2 Consideration of the Potential Impacts

3.2.1 Before attempting to combine the potential impacts and adopting the approaches outlined it is first necessary to establish the potential level of objectionability for each area of potential impact. In doing so, careful regard has been had to the subject specific technical/professional reports of the various specialists contained in the Appendices of the Environmental Statement (CD1.04 – 1.13) along with further technical work submitted in response to Regulation 25 requests during the determination of the Appeal application. Furthermore, as part of this Appeal, further technical assessments have been carried out in terms of LVIA, noise and air quality and dust. Set out below is a summary of the findings on each aspect and a view taken on the level of objectionability.

Landscape and Visual Impact

3.2.2 Consideration of potential new cumulative landscape and visual effects in conjunction with other developments that have been constructed, permitted or are applications that await determination since the ES (CD1.03) have been prepared has been carried out for the Appeal. This assessment is supported by Figures 1 and 2, photoviews at Viewpoints 1 to 6 (Figures 3 to 10), Viewpoint 8 (Figure 14), and Viewpoint 21 (Figure 28) in Volume 2 of the evidence of Mr Neil Furber.

3.2.3 The potential for cumulative landscape and visual effects between the Proposed Development in conjunction with the permitted Lea Castle Development (17/0205/OUT) and adjacent allocated Site were considered at paragraph 5.27 page 31 and paragraph 7.13 page 58 of CD1.04 (the submitted LVIA) and at section 22.5 of the ES (CD1.03). The permitted development is now under construction and the allocated Site is covered by a planning application 22/040/OUT that is still to be determined at the time of writing.

3.2.4 The location of other developments (recently constructed, permitted or in the planning system) are illustrated on Figure 1 of the evidence of Mr Neil Furber in relation to the application and extraction boundaries of the Proposed Development.

3.2.5 The LVIA at paragraph 5.27 (CD1.04) as part of the cumulative assessment also refers to 'other promoted residential areas to the south and east of the Site'. Furthermore, the ES at paragraphs 22.5.4, 22.5.7 and 22.5.8 make clear reference to planning permission at Stourbridge Road, which now appears to be completed (18/0163/FULL – 91 dwellings). It is clear that the ES and LVIA had accounted for 18/0163/FULL at Stoubridge Road, although additional smaller residential developments have since been approved and are listed below.

- 22/0235/PIP – 4 dwellings at Wolvereley Lodge - Application approved;
- 20/0217/FUL - Demolition of existing building and erection of 4 x two-bed bungalows. This development has now been completed; and
- 21/1200/OUT - erection of three dwellings, garages and associated operational development. This application and the subsequent appeal was refused i.e. this scheme does not form part of the cumulative assessment but is included for completeness.

<u>Lea Castle Mixed Use Development (17/0205/OUT and 22/040/OUT)</u>

3.2.6 Potentially significant cumulative effects upon landscape elements between the Lea Castle Mixed Use development and the Proposed Development are Neutral and potentially beneficial because both schemes seek retention of existing tree and hedgerow planting to the perimeter of the Sites and would contribute new planting as part of their respective mitigation schemes. There would be a permanent loss of agricultural land as part of the Lea Castle mixed use development, however the Appeal Site would be fully restored after 11 years and the restored soil profiles will enable it to achieve BMV status in the future.

3.2.7 In terms of landscape character, both the Lea Castle mixed-use development and the Proposed Development lie within the Sandstone Estateland Landscape Type (LVIA Figure 4 in CD1.04). As previously noted, and with reference to the Disturbed Land Plan at CD1.21, the area of land where mineral is being extracted at any one time within the operational phase would be less than 10 hectares. The progressive restoration would result in long term improvements to landscape character, in terms of historical continuity i.e., reinstatement of avenue trees and the Broom Covert woodland, and the introduction of groups of parkland trees and acidic species rich grassland. Public access would be improved by the addition of new public rights of way illustrated on CD5.11.

3.2.8 Cumulative landscape character and visual effects can be perceived in combination (where both developments are visible from the same location and in the same field of view), successively (where both developments are perceived from the same location by turning one's head), or sequentially, (where both developments are not visible at the same location but are perceived separately, in sequence, when travelling on a route). It is important when carrying out a cumulative landscape and visual assessment that effects in three-dimensions are fully understood. Just because two developments may be located relatively close to each other (as seen in a 2-dimensional plan view), does not necessarily equate to a cumulative effect that would be perceived in the field.

3.2.9 At Viewpoint 1 (See Figure 3 of the evidence of MR N Furber), the residential development under construction (17/0205/OUT) can be glimpsed behind woodland in the far right of the view. New built development as part of 22/040/OUT would extend across the foreground and middle-ground of the view preventing any views from the public footpath towards the Appeal Site. Any views within the new mixed-use development are likely to be highly restricted by adjacent built form. Any theoretical glimpses of the extraction of Phases 4/5 would be limited to the perimeter screen bunds set below the horizon with potential glimpses of the initial soil strip on Phase 4, similar to an agricultural operation, with the extraction working eastwards and very quickly below the height of the perimeter bunds.

3.2.10 At Viewpoint 2 (See Figure 4 of the evidence of MR N Furber), new built development as part of 22/040/OUT would be partially visible to the left of the road corridor (beyond the extent of presented photography). By contrast the Proposed Development would be predominantly screened from view with the upper parts of

the screen bunds potentially visible above and behind retained hedgerow planting. At nearby Viewpoint 9 (Figures 11 – 13 of the evidence of MR N Furber), from a more elevated location that is closer to the Proposed Development but not publicly accessible, the limited and filtered views of part of the grass seeded screen bunds to the east of Phase 4 are illustrated in the photomontages. This temporary mounding would only be in place for approximately 5 years. Notwithstanding the obvious fact that views of the temporary grassed bunds and new planting on the eastern edge of the Appeal Site would not constitute built development, there would be a Neutral cumulative effect and no discernible effect on openness.

3.2.11 At Viewpoint 3 (Figure 5 of the evidence of MR N Furber), the manure heap on the horizon is located on land approximately 3m higher and 60m further to the west of the crest of the screen bund 18 that would be installed to the east of Phase 4. Bund 17 to the east of Phase 5 would be largely hidden by intervening hedgerow planting that would be retained and reinforced as part of the proposals. New built development as part of 22/040/OUT would be screened by retained belt of pine trees in the far right of the view, although successive visibility of new built development along Park Gate Road would be available (beyond the extent of presented photography).

3.2.12 At Viewpoint 4 (Figures 6-8 of the evidence of MR N Furber), situated further east along Park Road, more elevated views towards the screen bunds would be largely prevented by a belt of intervening pine trees. Any changes to the views and landscape character available would be restricted to the growth of advanced woodland planting on the horizon between the belt of pine trees and Castle Barns (Figure 8 of the evidence of MR N Furber), however the Lea Castle mixed use development (22/040/OUT), assuming it is permitted and under construction, would likely largely restrict and eventually fully screen any views of towards the Appeal Site.

3.2.13 Viewpoints 5 and 6 (Figures 9 and 10 of the evidence of MR N Furber) to the southeast are from the urban edge of Kidderminster and views would include combined visibility of the Lea Castle mixed use development (22/040/OUT) and the eastern edge of Phases 4 and 5, although this would be restricted to temporary views of the grass seeded bunds associated with Phase 4 and to a lesser extent Phase 5, partially screened by existing vegetation that would be reinforced with new planting. The agricultural land to the east of the extraction area within the Appeal

Site would be maintained. Notwithstanding the obvious fact that views of the temporary grassed bunds and new planting on the eastern edge of the Appeal Site would not constitute built development, there would be a Neutral cumulative effect and no discernible effect on Green Belt openness.

3.2.14 Viewpoint 8 (Figure 14 of the evidence of MR N Furber), was taken from a locally elevated location where a pubic bridleway coincides with the access track to Castle Barns. There would be limited views of the Lea Castle mixed use development that would appear 'sandwiched' between the urban edge of Kidderminster in the background and the roofscape of Castle Barns and planting in the foreground. There would be no potential for any significant effects on the visual amenity of bridleway users or landscape character. The Proposed Development during Phases 4 and 5 would have a temporary Moderate Adverse effect that is Not Significant because of the direction of the working faces of mineral extraction, partly mitigated by advance planting and perimeter bunds. The cumulative effects upon landscape character and visual amenity resulting from views of both schemes would be Neutral i.e. not discernibly greater than for either scheme individually, noting the primary changes to views would result from temporary views of Phases 4 and 5. Notwithstanding the obvious fact that views of the temporary grassed bunds and new planting on the eastern edge of the Appeal Site would not constitute built development, there would be a Neutral cumulative effect and no discernible adverse effect on Green Belt openness.

<u>18/0163/FUL – 91 dwellings at Stoubridge Road</u>

3.2.15 The residential development has now been constructed and views from the northern edge of the new development would be similar to nearby Viewpoint 5 (Figure 9 of the evidence of MR N Furber). Views would include combined visibility of the Lea Castle mixed-use development (22/040/OUT) and the eastern edge of Phases 4 and 5, although this would be restricted to temporary views of the grass seeded bunds associated with Phase 4 and to a lesser extent Phase 5, partially screened by existing vegetation that would be reinforced with new planting. The open agricultural land to the east of the extraction area within the Appeal Site would be maintained. Notwithstanding the obvious fact that views of the temporary grassed bunds and new planting on the eastern edge of the Appeal Site would not constitute built development, there would be a Neutral cumulative effect and no discernible effect on openness.

22/0235/PIP – 4 dwellings at Wolverley Lodge

3.2.16 The approved development is located to the northwest of Brown Westhead Park playing fields. The site adjoining the playing fields is bordered by tall conifer screens and other tree cover and any heavily filtered views of the proposed development from the playing field (Viewpoint 21 – Figure 28 of the evidence of MR N Furber) would constitute a cumulative effect as the Proposed Development, including screen bunds, on the Appeal Site would not be visible.

20/0217/FUL - Erection of 4 x two-bed bungalows

3.2.17 The completed development on Brown Westhead Park is located to the east of the Appeal Site and is set down at a lower level such that there is no opportunity for any views of the Proposed Development from the bungalows themselves. Viewpoint 20 (Figure 27 of the evidence of MR N Furber) from the public footpath located between the two schemes, illustrates the very restricted views of the Appeal Site through woodland, however these views are only available intermittently from the public footpath on higher ground east of the bungalows. Very limited views of both developments are available from the footpath simultaneously (i.e., by turning one's head), however given the screening role of mature woodland cover, even in winter, it is assessed that the cumulative effect would be Neutral.

Cumulative Conclusions

3.2.18 The landform characteristics of the Site and surrounding land, implementation of advance planting, reinforced existing planting and grass seeded screen bunds, would in combination result in very limited cumulative effects with other developments recently constructed, permitted or in the planning system. Where very limited cumulative visibility of both schemes is available, as described above, the resulting level of cumulative effect on landscape character and visual amenity would be Neutral i.e. not discernibly greater than for the Proposed Development or other scheme/s individually.

3.2.19 In summary therefore, while there is potential for impact, the proposed development is not considered close to becoming an unacceptable adverse impact on the landscape or to visual receptors.

Impact of Noise

3.2.20 A Noise Assessment was carried out by WBM Acoustic Consultants (CD1.07) in order to establish baseline noise levels, make recommendations regarding site noise limits

at the nearest dwellings to the site, and to test compliance with those noise limits to examine the potential noise impact of the proposed development. The potential impact is considered using the known noise output of mineral activities and specific plant and equipment proposed to be used, assessed against the sensitivity of the noise receptor.

3.2.21 The noise calculations assumed that all plant on site is operating simultaneously in the closest likely working areas to each receiver location for the proposed operations, in order to assess a 'worst-case' scenario. Appropriate stand-off distances have been designed-in to the proposed scheme to further soften noise impacts. The Noise Assessment concluded that calculated site noise levels due to mineral operations at the proposed site comply with the suggested site noise limits at all assessment locations.

3.2.22 As part of this Appeal, cumulative impact has been addressed in the evidence of Ms Rachel Canham, with noise from construction activities at the Lea Castle Village site considered to be the most significant noise source associated with other developments that may have an impact on the noise sensitive receptors.

3.2.23 If construction noise was at the possible maximum limit at a noise sensitive receptor, noise from the quarry would be insignificant compared to the potential construction noise from the housing development. As such, the addition of site noise from the quarry would not change the cumulative noise impact at this receptor, as the noise environment would be controlled by construction noise.

3.2.24 Construction noise will be variable and temporary, and only likely to be in close proximity to any noise sensitive receptors for relatively short durations. In addition, the calculated site noise levels due to the quarry are worst cases, assuming simultaneous extraction and infilling operations occurring at the nearest parts of the quarry to the receptor, which would not happen in practice. Taking this into account, the cumulative impact from both normal site activities from the quarry and construction operations is unlikely to be significant at any receptor.

3.2.25 As such, the consideration of cumulative impact does not alter the outcome of the original noise assessment of the site.

3.2.26 In conclusion, with the appropriate noise mitigation in place, the proposed development does not come close to the thresholds of being an unacceptable adverse impact in regards to noise.

Dust and Air Quality

3.2.27 The proposed extraction and infilling operations, together with associated vehicle movements, have the potential to generate dust and other aerial emissions. The original Dust Impact Assessment carried out by Vibrock Ltd and separate Air Quality Assessment carried out by EnviroCentre have been supplemented by further consideration of the potential cumulative impacts and effects on nearby landuses that may arise from such emissions in conjunction with the 'core' and 'wider' Lea Castle Village developments.

3.2.28 This has considered both i) potential impacts on new receptors to be introduced by the Lea Castle Village developments and ii) potential cumulative impacts on existing receptors if the developments occur concurrently.

3.2.29 The dis-amenity assessment has considered the distance and orientation of proposed new receptors within both the 'core' area and the closer 'wider' area to the proposed extraction area. The nearest potential new receptors would be 240m to the east of the extraction area. Even if these properties were to be occupied whilst operations were occurring in Phases 4 and 5 of the Site, the resulting effects are predicted to be negligible. It is concluded that the proposals would not have any significant adverse effects on any proposed new receptors.

3.2.30 Two properties / areas of properties have been identified that lie within the relevant dis-amenity dust risk screening distances of both the proposed development and the 'wider' Lea Castle Village site, Castle Barns and Four Winds. The potential for cumulative impacts at these receptors would only occur if extraction and restoration activities occurred in Phases 4 and 5 of the proposed development at the same time as construction activities in the western area of the wider Lea Castle Village development.

3.2.31 Taking into account distances and orientation, and the implementation of appropriate dust management and control measures, it is concluded that the contribution of dust amenity impacts that may arise if the western part of the wider Lea Castle Village development was to occur simultaneously with the proposed development would not result in significant adverse effects at either of these properties.

3.2.32 Potential cumulative contributions to local PM10 and PM2.5 concentrations from fugitive dust and vehicle emissions are also not predicted to result in significant

adverse impacts at either proposed new, or existing, receptors. Similarly, potential cumulative contributions to local NO2 concentrations from vehicle emissions are not predicted to result in significant adverse impacts at either proposed new, or existing, receptors. No exceedances of existing National Air Quality Objectives are predicted.

3.2.33 With the appropriate air quality and dust mitigation measures in place, the proposed development does not come close to the thresholds of being an unacceptable adverse impact.

Ecology & Nature Conservation

3.2.34 An Ecological Impact Assessment (EcIA) has been prepared by Pleydell Smithyman (CD1.05) which is informed by a Desk Study in order to obtain information of designated sites of nature conservation interest, and a suite of ecological surveys undertaken between 2016 and 2019. Further ecological work was carried out in response to Regulation 25 requests as follows:

- 1st Regulation 25 Submission
    - Response to Arboriculture and Protected Species Comments (CD3.04);
    - Appendix F – Biodiversity Net Gain Report (CD3.10); and
    - Dormouse Report (CD3.19).
- 2nd Regulation 25 Consultation Responses
    - Response to Dormice comments (CD5.18);
    - Dormice Survey Drawing (CD5.19);
    - Response to County Ecologist 17.09.21 (CD5.28); and
    - Response to County Ecologist – 17.9.2021 (CD7.01).
- 3rd Regulation 25 Submission
    - Habitat Regulations Assessment (CD8.02);
    - Appendix 1 – Preliminary Ecological Appraisal (CD8.03);
    - Appendix 4 – Ecological Impact Assessment (CD8.06); and
    - Final Habitat Regulations Assessment – 29.4.2022 (CD8.09).

3.2.35 There are no statutory designated sites present within the application site. Existing habitats within the site include semi-improved neutral grassland, improved

grassland, tall ruderal habitat, arable, hedgerows, scattered trees, hardstanding and surrounding broad-leaved and mixed woodland. Protected species surveys undertaken identified a range of species protected at district, local or parish level.

3.2.36 In terms of potential impacts, the habitats of the highest ecological importance (boundary deciduous woodland) will not be removed by the proposals. Overall, no significant adverse impacts are anticipated on habitats present within the site provided that restoration is delivered as proposed. A net biodiversity gain has been calculated.

3.2.37 A number of mitigation measures have been detailed to ensure that all legally protected species recorded within the site are adequately protected throughout the duration of the works. No significant negative impacts are anticipated on any known protected species present. A landscape and ecological management plan will be produced to ensure long-term biodiversity benefits.

3.2.38 In summary therefore, while there is potential for some impact, the proposed development is not considered close to becoming an unacceptable adverse impact on ecology.

Transport Impact

3.2.39 In terms of road traffic, a Transport Assessment has been prepared by The Hurlstone Partnership (CD1.09), which demonstrates that the development, including proposed new access location and design, are fully in accordance with both national and local policy. Empirical traffic survey data was obtained and a topographic survey of the road was also undertaken in order to ensure that an appropriate access arrangement with suitable visibility splays could be provided.

3.2.40 The impact of the proposed development on the local highway network has been found to be acceptable. The review undertaken confirms that in the worst case, the proposed development would attract an average of 77 loads / 154 HGV movements per day plus 22 movements (11 in / 11 out) associated with staff trips by the 11 employees within the site. The assessment has been based on the 154 HGV movements per day at the specific request of the Highway Authority, on the basis that back-hauling of sand and gravel exports with a load of imported fill be ignored, in order to represent the worst case. The highest increase in traffic over any baseline flow was found to be 1.7%, which falls well below the 5% threshold considered to represent a material increase in traffic

3.2.41 The Transport Assessment does not identify any unacceptable impact on highway safety or assess that the residual cumulative impacts on the road network would be severe. Data also confirms that the local roads routinely accommodate HGV traffic. The analysis of personal injury accident data recorded over the most recent 5 year period confirmed that there are no inherent characteristics of the local road network that unacceptably compromise safety for or as a result of HGV activity.

3.2.42 The traffic and transport impacts of the proposal do not come close to the thresholds of unacceptability.

Water Environment

3.2.43 BCL Hydro Consultant Hydrogeologists Limited undertook a Flood Risk Assessment and Drainage Strategy, and Hydrological and Hydrogeological Impact Assessment (CD1.13) with regard to the proposed development at Lea Castle Farm.

Flood Risk and Drainage Strategy

3.2.44 The Flood Risk Assessment (FRA) has considered the existing drainage of the application site and outlines that as at present, the operational and post-restoration site will be drained by percolation to underlying strata. The Assessment has determined that the only measure necessary to ensure compliance with the requirements of the NPPF is that the provision of a de-minimis volume of attenuation as freeboard with soakaway ponds to ensure that storm run-off from modified substrate will not cause a nuisance to post restoration on-site activities.

3.2.45 Upon implementation of the attenuating soakway ponds, the FRA demonstrates that the proposed development will not be significantly affected by current or future flooding from any source, and that the proposals will not increase flood risk elsewhere. In terms of EA Flood Risk Zonations, the proposed development is appropriate.

Hydrological and Hydrogeological Impact Assessment

3.2.46 The hydrological and hydrogeological impact assessments have initially assessed the baseline conditions at the application site to form a comprehensive understanding of the extant groundwater and surface water regimes. The Impact Assessment has concluded that the proposed development will not result in primary impacts on water resources (such as derogation of groundwater and surface water levels/flows/quality) and therefore no secondary impacts on water resources (such

as volumes/quality of water available to existing or potential abstractions and/or flora/faunal communities).

3.2.47 Measures to reduce the potential for hydrological and/or hydrogeological impact have been designed into the proposed scheme, such as profiling materials during the operational phases of development to shed percolating rainfall via field drains to a number of unlined soakaways. No mineral operations will take place sub-water table or employ any dewatering.

3.2.48 In the proposed site restoration, prior to the backfilling of the voids with inert materials, a suitable liner will be used to minimise the risk of contaminating the underlying SSG aquifer. In addition, all incoming materials will be subject to inspection and segregation prior to landfilling.

3.2.49 The potential impact on water resources of the proposal do not come close to the thresholds of unacceptability.

Archaeology and Cultural Heritage

3.2.50 An Archaeological Desk-Based Assessment has been prepared by Worcestershire Archaeology (CD1.11 and CD1.12) and a geophysical assessment has been carried out which considers the site's potential for containing assets of archaeological significance, and the potential impacts of the proposed development on archaeology and the existing 'baseline' heritage value of the site and it's setting. The findings of the Assessments are summarised below:

Archaeology

3.2.51 The Desk-Based Assessment found that there is limited evidence of prehistoric or Roman activity in the study area. There is also limited evidence for early medieval and medieval activity. Early historic mapping indicates that the site was probably agricultural (or common) land until the late 18th or early 20th century. The study area for the Desk-Based Assessment found very limited representation of any prehistoric, Roman, early medieval and/or medieval activity and therefore the potential for survival of assets dating to these periods within the site has been assessed as 'low'.

3.2.52 Historic mapping and other documents indicate that the site was formerly parkland around Lea Castle during the early 19th century prior to the conversion of the site to agricultural use. The western part of the site was also formerly used as a grass landing strip. Any archaeological evidence from the post-medieval and modern

periods would probably relate to agriculture, parkland and/or the landing strip and therefore is considered as only locally informative and of low/negligible significance. The proposed development is not considered to pose a significant risk of damage / loss of any non-designated or below ground assets.

3.2.53 In terms of the geophysical assessment, the results suggest that nothing of significance will be found. Therefore, it is clear that the potential for impact on buried archaeology is sufficiently low to allow the application to be determined without the need for any further post determination archaeological work. It is considered that in terms of the requirement for any future archaeological investigation, the imposition of a condition on archaeology is appropriate in planning terms and is supported by the evidence. Following grant of permission, further dialogue will take place on archaeological considerations and appropriate submissions made.

Cultural Heritage

3.2.54 The Assessment has identified no designated monuments within or immediately adjacent to the site. Overall, it is not anticipated that any designated assets recorded in the study area will be significantly affected by the development, although there will be a minor adverse impact of the Grade II listed North Lodges and Gateway to Lea Castle, which is located c. 250m from the site boundary. Restoration of some of the parkland features, including the tree lined avenues and Broom Covert will reduce the long-term impact of mineral extraction to an insignificant level and to a degree which is considered to be policy complaint.

3.2.55 In summary therefore, the proposed development is not considered close to becoming an unacceptable adverse impact on archaeology or cultural heritage receptors.

Soils and Land Quality

3.2.56 An Agricultural Land Classification and Soil Resource Report has been prepared by Kedd Development Limited (CD1.10) and includes a summary of the existing climate, site, and soils present alongside an assessment of agricultural land classification (ALC) and soil storage/handling methods.

3.2.57 The distribution of agricultural land classification grades across the existing site is summarised as 21.3% Grade2, 66.5% Grade 3a, 1.7% Grade 3b. 10.5% of the site is non agricultural. The soil resources have been assessed as typically Medium Sandy

Loam topsoil with overlying Loamy Medium Sand upper subsoil, sitting on sand and soft sandstone in the eastern area or slightly to moderately stony sand in the western area. The average soil depth overlying the mineral reserve is 0.7m deep.

3.2.58 In order to protect and conserve soil quality as required in the adopted and emerging Development Plan, soil storage and handling measures are recommended in the Report at Technical Appendix G. These measures are to be implemented in the scheme of soil storage and handling employed at the site.

3.2.59 The impact of the proposal on soils and agricultural land quality does not come close to the thresholds of unacceptability.

Arboriculture

3.2.60 The findings of the arboricultural survey have shown that where felling is considered necessary, of the five trees to be felled, only one is considered to be Category A (T26 – mature oak). A single Category B tree (T9 – mature oak) was originally proposed to be felled but has since been agreed with the Council to be retained. Despite benefitting from a TPO, T10 (mature oak) is classified as Category C with impact of removal classed as 'low', Tree T10 was also proposed to be felled but has since been agreed with the Council to be retained. T22 is a Category C veteran Sweet Chestnut tree. Overall it was assessed as being of poor structural and physiological condition with the impact of its removal considered to be Low. It is suggested that the retention of trees T9 and T10 be secured by a condition.

3.2.61 The proposed extraction area stand-off from the mature trees present around the sites boundaries ensures that all other trees present on/at the edges of the site will be retained as part of the development proposals. It is proposed that these are protected during the works by erecting tree protection fencing in accordance with the requirements of BS 5837:2012, as part of the development proposals.

3.2.62 By reason of the above, the development will not give rise to a significant adverse impact upon arboricultural assets. Notwithstanding this, as set out in the restoration section of this statement, the proposed restoration scheme will create significant new woodland/scrubland habitat. The scheme will establish 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..

3.2.63 In conclusion it is considered that the impacts of the proposal upon arboriculture are not considered to be in themselves unacceptable nor near the thresholds of becoming an unacceptable environmental impact.

Lighting

3.2.64 There are no proposals to install permanent lights along any access track within what will become the mineral extraction area because all mobile plant used will have its own lighting

3.2.65 The aggregate processing plant will have safety lighting attached to the plant and equipment to illuminate operational areas and walkways. The aggregate processing plant will only be illuminated when operational (maximum 07:00-19:00). All lighting will be directed downwards (below 700 lumens) illuminating the operational area only. There will be periphery lighting columns at the HGV entrance to the aggregate processing area which will only be illuminated during operational hours (07:00-19:00).

3.2.66 The conveyor will have safety lighting attached to the loading and off-loading points to illuminate operational areas. The safety lighting will be motion sensor therefore will only be illuminated when operational. All lighting will be below 1.5m in height and directed downwards.

3.2.67 Weighbridge and wheelwash will have 3m column lighting. The office buildings will have external motion sensor safety lights. The car parking area will have 3m column lighting which will be on timer (07:00-19:00).

3.2.68 Prior to the installation of any lighting, the location and details will be agreed in writing with the Mineral Planning Authority.

3.2.69 All lighting will be designed and installed to illuminate the site and operation while reducing nuisance lighting to local residents.

3.2.70 The proposed development does not come close to the thresholds of being an unacceptable adverse impact.

Conclusions on the Potential Impacts

3.2.71 In terms of individual areas of potential impact, it is concluded that there would be no individual areas of objectionable environmental impact arising from the proposal. Potentially the most substantial effect that could contribute the most to cumulative harm is the impact upon the landscape character and visual appearance of the site during the course of the temporary operations. In the longer term, however, the restoration of the site would bring about overall improvements in landscape character and ecological enhancement.

3.3 Assessment of the Combination of Potential Impacts

Introduction – Methodology (Mr J. Burton)

3.3.1 In his judgement (reference EWHC Admin 1427 2007) Mr Justice Burton took the view that to make an assessment of cumulative impact on the basis of simple value judgements with no supporting reasons is inappropriate. In order for a 'proper assessment' to be carried out in the context of MPS 2 he outlined four possible tests that could be employed.

3.3.2 The assessment of the combined potential negative effects of the Lea Castle Farm proposals therefore generally follows Mr Justice Burton's approach and is set out below.

Test 1 - Even though each individual area of potential impact was not objectionable yet each such feature was close to objectionability that, although none could be said to be individually objectionable, yet because each was nearly objectionable, the totality was cumulatively objectionable.

3.3.3 In Section 3.2 above it has been considered that each individual area of potential impact is not, on balance, objectionable. Given the nature of mineral development, it is acknowledged though that the potential Landscape and Visual impact of the scheme would come close to the thresholds of acceptability. Although the potential noise, traffic and ecological impacts of the scheme would give rise to some negative impacts during the course of the operations, there would be no direct conflict with development plan policy and these individual issues would not come close to being objectionable. Similarly, the potential impacts on interests related to the water environment, archaeology, soils/land quality, arboriculture and lighting are not considered to come close to being objectionable on an individual basis.

3.3.4 Therefore, overall, only one of the individual areas of potential impact is considered to be close to being objectionable (Landscape and Visual impact). Whilst it is

accepted that other individual areas would give rise to varying degrees of negative impact during the course of the development, they would not come close to being objectionable on an individual basis. It is therefore concluded that, because only one feature is considered to be close to being objectionable, and the other impacts do not come close to being objectionable or conflict with Development Plan Policy, the totality would not be objectionable.

Test 2 - One, two, three or four of the particular features were close to being objectionable and that would be an important matter to take into account when looking at the totality.

3.3.5 In this case only one particular feature is close to being objectionable; namely Landscape and Visual Impact. Therefore, we have to judge how important that matter is. To do this we have looked at how sensitive the area is in terms of landscape and visual matters. In this regard the site is not situated in an area of high landscape value (e.g. AONB, National Park etc) or designated as an Area of Local Landscape Significance in the Wyre Forest District Local Plan.

3.3.6 The site is located wholly within the West Midlands Green Belt. The primary function of this designation, however, is not to protect the landscape quality of the site or the surrounding area but to primarily prevent the coalescence of towns and preserve the openness of the countryside. As set out in my proof, the proposed development would, notwithstanding its duration, be a temporary activity and whilst the proposal would disturb the site for a period of time, it would be progressively returned to an open state following completion of extraction and would be no more built up on completion of the development as a result of the proposal as it is now. There would be no permanent spatial or visual impact on the Green Belt.

3.3.7 Open views of the site would be possible from a number of public locations, particularly in elevated positions around the site during the temporary operational phases of the proposed development. For the most part the potential sensitive visual receptors are representative of a typical development of this nature and are not therefore elevated in terms of importance.

3.3.8 The absence of any specific landscape designations or specific development plan policy does not highlight any specific concerns and therefore raise its importance in the planning balance. The main potential negative visual impacts are only short term and in the medium to long term the restoration of the site would improve the character and visual interest of the landscape. There is not therefore any

combination of particular features that are considered to be important matters that could give rise to objections in regard to test two.

Test 3 - One particular combination of two or three otherwise unobjectionable features could cause objectionability in their totality.

3.3.9 In consideration of this matter there are individual features (impacts) which are related in terms of subject matter or in regard to the receptors in which they have the potential to impact upon and could therefore be considered in combination, namely:

1. Landscape/Visual Impact and Ecological Impact; and
2. Local Amenity impacts such as Noise, Dust and Traffic.

3.3.10 In relation to point one, as discussed above, the predicted landscape and visual effects are considered to be close to being objectionable. The short to medium term negative impacts would though be mitigated by the long term overall improvements in character and visual interest of the landscape. Given that the potential ecological impact of the proposal is not judged to be close to being objectionable it is considered that in combination their totality would not amount to being objectionable.

3.3.11 In relation to the second suggested combination (local amenity impacts), none of the individual features are likely to give rise to direct conflict with development plan policy or exceed nationally recognized thresholds of potential nuisance related impacts. No major concerns are predicted in regard to HGV traffic resulting from the proposal. It is considered that because the potential impacts of noise, dust and traffic on local communities and individual properties (i.e. the nearest sensitive receptors) individually would each be well within the thresholds of objectionability their combined totality would not be objectionable.

3.3.12 In the light of the above it is concluded that there are no particular combination of two or three otherwise unobjectionable features that could cause objectionability in their totality.

Test 4 - As was specifically addressed by the Interested Party and by the Inspector here, and found not to be the case, there could be some unusual feature or some unusual combination of features such as to render the combination objectionable when the individual feature was not.

3.3.13 For the most part, the site and surroundings are typical in relation to the potential sensitive receptors, the issues and the potential impacts that tend to arise from mineral development of this nature.

3.3.14 The potential impact of noise upon receptors would comply with the development plan and well within the recognized limits set out in PPG. The potential impacts of noise would be short term and would not therefore come close to being objectionable on potential receptors.

3.3.15 Dust emissions from the proposed development are short term and would be controlled well within nationally recognized criteria by the use of a dust management plan and effective on site dust mitigation techniques and would not come close to being objectionable.

3.3.16 To therefore conclude on the fourth test, noise and dust impacts are well within the thresholds of objectionability. It is therefore concluded that because none of the two potential impacts comes close to being objectionable their combined impact do not accumulate to being objectionable.

Conclusions

3.3.17 It is considered the approach and methodology to assessing the combined negative effects is thorough and robust. Following an assessment of each of the four tests it has been concluded that no objectionable combined negative effects would be brought about by the proposed development of Lea Castle Farm.

4 Other Potential Beneficial Effects

4.1.1 The proposed scheme would create a number of benefits which are summarised as follows:

1. Meeting a sand and gravel need. Section 5 of my Proof deals with the need for sand and gravel and sets out that there is an urgent need for the release of mineral reserves in Worcestershire. The Appeal Scheme would be a major contributor to the Council's landbank, which is currently not in compliance with NPPF paragraph 213.
2. Environmental and Sustainability benefits. Section 10.3 of my Proof deals with the environmental and sustainability benefits of the scheme and sets out that the site is located in a unique logistical position in the marketplace

as Worcestershire has a clear divide in available resource. The northern half of the County in which the Appeal Site is located contains the solid sands (building and mortar markets) with the concreting sand and gravels from the terrace and glacial deposits in the south of the county. The two different resources serve different and distinct markets. Their location within the county would affect the distance they need to travel to market as well as the demand / pull on resources from outside the county to meet demand. The number of active and permitted sites (but non-operational) sites are also small in number which may affect the distance the reserves travel to market;

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. The Appeal Proposal would help provide a balanced geographical spread of mineral supply sources; and

A further key consideration is the number of proposed and permitted large-scale residential schemes in close proximity to 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.

3. A range of socio economic benefits. Section 10.4 of my Proof deals with the socio economic benefits of the scheme and sets out how the Appeal Scheme would help provide and secure jobs for people directly and indirectly employed as part of the quarry operations and which contribute to the local economy through wages, business rates, use of local suppliers, and at a national level; to the economy through aggregates levy [a tax on sand, gravel and rock] and other taxation processes.

4. Restoration and biodiversity benefits. Section 10.5 of my Proof deals with the restoration and biodiversity benefits of the scheme and sets out how the benefits resulting from this proposed development are substantial and wide reaching, with a significant net gain in biodiversity.

4.1.2 It can be concluded that the benefits resulting from this proposed development are substantial and wide reaching and are considered to combine to provide a significant positive impact, which acts as a counter weight to the negative impacts.

5 Overall Conclusions – Cumulative Impact, Combined Positive and Negative Effects

5.1.1 The approach to assessing cumulative impact has followed the advice of Mr Justice Burton (in the Long Moor case) 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.

5.1.2 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.

5.1.3 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.

5.1.4 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.

5.1.5 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.

5.1.6 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.

5.1.7 In the light of the above it is concluded that the cumulative impacts of the scheme do not justify refusal of planning permission. This conclusion has been reached having regard in particular to the impact of each individual effect (each of which has been assessed to be well below the level of unacceptability, even when assessed in combination with other on-going or committed development), the temporary nature of the development, and the short, medium and long term benefits that the proposals will deliver.

Appendix 3 – Evidence of Mr J Hurlstone

The Hurlstone Partnership

APPEAL BY NRS AGGREGATES LTD - LAND AT LEA CASTLE FARM, WOLVERLEY ROAD, BROADWATERS, KIDDERMINSTER, WORCESTERSHIRE

Proof of Evidence on Highway Matters of
Jeremy P. Hurlstone BSc (Hons), CMILT, MCIHT

APPEAL REF: APP/E1885/W/22/3310099

LPA REF: 19/000053/CM

January 2023

JPH/151002/Final

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Document Status –Final

Produced by: - - - - - - J P Hurlstone Date: January 2023

Transportation Planning, Highway Design and Environmental Assessment

CONTENTS

1 SUMMARY

1.1 My name is Jeremy Peter Hurlstone; I hold a BSc (Hons) in Civil Engineering Management, am a Member of the Chartered Institution of Highways and Transportation and a Chartered Member of The Institute of Logistics and Transport. I have over 35 years of experience in the transportation industry.

1.2 I have presented evidence at numerous Public Inquiries and Hearings during my career for various types and scale of developments.

1.3 I was instructed to review the concerns raised by the Rule 6 Party STQC in its Statement of Case insofar as they relate to highway matters.

1.4 Having completed the review I have concluded that the technical assessment of the proposed access and traffic impact of the quarry traffic on the local road network is robust and underpinned by relevant guidance.

1.5 Claims made by STQC regarding deficiencies in the assessment are shown to be incorrect by cross-referencing the technical information considered at the planning application.

1.6 Whilst STQC may have general concerns regarding the local Highway Authority's transport policies and performance of its road network, these concerns are more appropriately directed to the Council outside the forum of the appeal for this particular development.

1.7 Notwithstanding those concerns, it has been demonstrated that the quantum of development traffic associated with the site would not result in an unacceptable impact on the local road network.

1.8 Insofar as highway and transport matters are concerned, I invite the Inspector to agree with my own conclusion, and that of the Council, that planning permission should not be refused on highway grounds, as the access design is demonstrably acceptable in the context of recognised design guidance and the cumulative residual impact on the road network would not be severe.

2 INTRODUCTION

2.1 My name is Jeremy Peter Hurlstone; I am the Managing Director of The Hurlstone Partnership Limited, which provides specialist highway advice to developers and Local Authorities. I hold a BSc (Hons) in Civil Engineering Management. I am a Member of the Chartered Institution of Highways and Transportation (MCIHT) and a Chartered Member of The Institute of Logistics and Transport (CMILT).

2.2 I have over 35 years of experience in the transportation industry, during which time I have been involved in many projects of varying development type.

2.3 I worked for the multi-disciplinary consultancy Scott Wilson Kirkpatrick for approximately 11 years before moving to The Denis Wilson Partnership, a more specialised transportation company, for a further 4 years, where I was employed as a Principal Transportation Planner. I continue to undertake work with HaskoningDHV (which incorporates what was DWP) in addition to servicing the expanding client base of The Hurlstone Partnership.

2.4 I have prepared and given evidence at numerous Public Inquiries and Hearings during my career for various types and scale of development.

2.5 I was originally contacted in October 2015 to provide highway assistance and advice regarding the proposed new quarry at Lea Castle Farm, Wolverley. I was subsequently involved in the pre-application consultations and prepared the Transport Statement which formed part of the planning application. I was also involved in discussions with the Highway Authority prior to determination of the planning application, which was recommended for approval by officers, but refused permission by Members.

2.6 Despite there being no objection from the Highway Authority, the 7th reason for refusal cited "*Unacceptable impact on highways;*". The decision notice of 27 May 2022 expanded upon the 7th reason for refusal in the information section: *"The proposed development includes the construction of a new access located along Wolverley Road (B4189). The proposal would generate a worst-case scenario of approximately 154 HGV movements per day (77 entering the site and 77 exiting the site per day). This equates to approximately 13 HGV movements per hour. In view of this it is considered that the proposal would have an unacceptable impact on highways, particularly in terms of increased highway maintenance and conflict with users, such as school children walking to school."*

2.7 I was instructed to review the reason for refusal and assist with the proposed appeal. I suggested contacting the Council, inviting it to reconsider its highway objection, given the work undertaken in preparing the Transport Statement and the fact that the Highway Authority responsible for road network performance and safety had agreed the impact of the proposed development would be acceptable.

2.8 The Council reviewed its position and formally withdrew its objection on highway grounds from the Appeal proceedings. However, Stop the Quarry Campaign (STQC), which applied for and secured Rule 6 status, chose to maintain its objection on highway grounds, which

has led to my appointment to prepare evidence in rebuttal to its concerns, which are contrary to the position of the Council and, I am advised, will not be supported by any evidence from a professional Highways representative.

2.9 I have reviewed the STQC Statement of Case insofar as Highway matters are raised, and have commented on the concerns. Having completed my review, I remain of the Professional opinion that the highway impact of the proposed development would be acceptable, as is agreed by the Council and Highway Authority responsible for the road network.

2.10 Accordingly, it is my professional opinion to this Inquiry that there is no reasonable basis for refusing permission on highways and transportation grounds.

3 STQC STATEMENT OF CASE

3.1 Within this section, I will reference the relevant paragraph of the STQC Statement of Case (SoC), summarise the point made by STQC and provide my comments on it.

Paragraph 2.1
Purpose of STQC To oppose the planned Quarry

3.2 It is important that anyone considering this proposal undertake a balanced appraisal of each of the issues arising, which should then inform a considered, overall judgment of the merits of the development as a whole. Setting out with the sole intention of opposing the quarry runs the risk that STQC fails to approach issues, including highways issues, in an open-minded and balanced way.

Paragraph 2.4
No funds to retain consultants and legal representation

3.3 Paragraph 2.3 of the SoC confirms STQC has over 5000 members, whilst paragraph 2.1 confirms one of STQC's purposes is to "*Ensure all funds raised are used to benefit and enhance the community."* Insofar as the funding is concerned, paragraph 2.4 confirms "*STQC is not publicly funded and relies on minimal donations from members and supporters. STQC has no funds to retain consultants and legal representation*." However, this statement appears to be contradicted by paragraph 7.8 which follows the list of refusal reasons and states: *"STQC agrees with the reasons for refusal and sets out the arguments for this below. For the Inquiry we will deliver proofs of these points and in some cases expert witnesses to these proofs."* It is unclear whether the expert witnesses will be funded or working at no cost.

3.4 Notwithstanding this, insofar as highway matters are concerned, paragraph 9 of the Inspector's CMC Summary Note states: *"The Rule 6 Party identified that evidence (not expert witness) would likely be submitted in respect of highway capacity and safety."*

3.5 By seeking and gaining Rule 6 status STQC agreed to be bound by the same responsibilities and liabilities as the Main Parties to the appeal. STQC has chosen not to provide expert evidence on a subject which clearly requires professional expertise, whilst at the same time maintaining its highways based objection. This has forced the Appellant to Instruct me to prepare evidence to rebut the points being raised by STQC, resulting in potentially unnecessary costs.

Paragraph 5.3
It is understood that site vehicle movements to and from Wolverley Village will be prohibited. A suitable, lawful condition or S106 Agreement is required to ensure this as traffic impact on roads and the village have not been assessed

3.6 The Transport Statement (TS) Paras 2.1 – 2.5 consider the road network through Wolverley village. TS Paras 2.13 and 2.14 describe Sion Hill. TS Paras 1.4, 2.15 and 5.3 confirm HGV routeing to the east of the access, which the latter also confirms is at the request of the Highway Authority. As a result of this agreed routeing strategy, there was no requirement to consider the impact of routeing HGVs through Wolverley village to the west of the site access.

3.7 The site access has been specifically designed to physically prevent HGVs making either a left turn into or right turn out of the site using kerbed, channelising islands combined with small / tight radii. As paragraph 5.3 of the TS confirms, the access will also be monitored by CCTV. A drivers' code of conduct incorporating a routeing agreement will also be used, which HGV drivers visiting the site must agree as part of their trading arrangements with the operator. These measures are commonplace within the mineral industry where routeing restrictions are imposed. Drivers who disobey the site rules are normally banned from the site.

3.8 Should the Council believe such restrictions are inadequate or ineffective, Traffic Regulation Orders may be used to impose weight restrictions on the routes to the west to prevent HGVs travelling through the village to the west of the access, whilst maintaining HGV access to the existing business within the restricted area on an "Except for access" basis. However, the Council has not indicated this would be necessary due to the proposed access arrangement designed in accordance with its requirements to specifically avoid HGVs travelling through Wolverley village when visiting the proposed Quarry.

3.9 In terms of staff activity, the TS para 5.20 concluded the impact of 16 staff movements was not significant, as they occur off-peak and result in cumulative flows below the peak hour levels.

Paragraph 7.35
WCC has major issues with its Highways policy…All major junctions over capacity at peak times

3.10 Notwithstanding whether or not that is true, the application does not breach the threshold of unacceptable transport impact based on local or national policy.

3.11 There are many junctions on many parts of the national highway network that operate over their respective design capacity during certain periods. However, this does not automatically prevent further development being acceptable that may add to existing movements. National planning policy is clear that permission should not be refused on capacity grounds unless the residual cumulative impacts on the road network would be severe (NPPF para.111). In this case, the impact of the development traffic is insignificant in the local context.

Paragraph 7.37
Cumulative impact with Lea Castle Hospital will cause significant congestion

3.12 Section 6 of the TS considers cumulative impact with specific reference to the Hospital site at paras 6.1 – 6.9.

3.13 It appears from Google Earth that the build-out at the site is behind schedule. Therefore, the cumulative impact point at paragraph 6.5 of the TS (i.e. that the site would not be fully developed by the time the Quarry is completed) may still be correct. Therefore, the spare capacity built into the associated junction improvements could be utilised by the Quarry during its operational life, despite the delays incurred through the planning process.

Paragraph 7.38
13 HGV movements per hour (NRS para 6.4.2) NOT worst case scenario as movements will peak in the morning and evening when quarry opens and closes

3.14 The TS makes it clear that the flows presented are averages. There will normally be fluctuations in daily activity at the site and there are demonstrably day to day and hour to hour fluctuations on the local road network, as the traffic survey data confirms.

3.15 Paragraph 5.22 confirms development traffic represents up to 1.8% of the daily flows on the B4189 and just 7.6% of the observed daily variation in flow on the route, whilst paragraphs 5.23 – 5.26 of the TS consider other routes; finding the % increases associated with the quarry are less than those occurring on the B4189 and are insignificant.

3.16 Given peak hourly flows are higher than the average, the proportional increases associated with hour-to-hour fluctuations in demand at the Quarry are not considered to be at a level where the proportional increase in traffic flow breaches the level of unacceptability, as has been recognised by the Council.

Paragraph 7.39
It is evident that the suitability, in highway capacity and safety terms, of the wider highway network has not been considered

3.17 Contrary to the assertion of STQC, a cumulative impact assessment was undertaken within a study area that was agreed with the Highway Authority. The whole purpose of such an assessment is to consider the suitability in highway capacity and safety terms of the wider highway network.

Paragraph 7.40
Movement figures fail to take into account the behaviour of HGV drivers who will approach from the west, drive past the access and use the Park Gate Road, A451 Stourbridge Road and A449 Wolverhampton Road triangle to effectively perform a U turn to access the site from the east, having already travelled through Wolverley

3.18 The potential for this to occur is considered limited based on the markets accessed from the west. We are instructed that there are alternative suppliers to the western markets that may be more desirable than the proposed site.

3.19 When assessing the routes available, it is possible that at some times of the day there may be some potential time savings for drivers following this route, rather than using the alternatives available. However, if this is perceived to be a significant problem by the Highway Authority, which has not raised such concerns, a Traffic Regulation Order with a weight limit to the west of the access would make it unlawful for HGVs to pass along that section of the route unless delivering within it, should an "Except for access" exemption be included. To be clear, neither myself nor the Highway Authority believe it will be a significant problem. If we are proved wrong, there is an option available to the Highway Authority to address the issue.

Paragraph 7.40
Lorry drivers parking up near access points has not been considered

3.20 This concern may be dealt with through driver Codes of Conduct and site management, which hauliers accessing the site must agree to and abide by. Those failing to comply can be identified by registration number and banned from the site. It is not unusual for Quarry operators to operate such systems of control where these issues are a material concern

Paragraph 7.41
NRS representative raised doubt about efficacy of access, parking and turning details in committee presentation

3.21 Whilst I was not at the committee meeting and therefore am unable to confirm what may or may not have been said, based on my appraisal of the proposed development, traffic and local road network, and having experienced similar local concerns at other quarry sites I have been involved with, I believe all of these matters are capable of being addressed through available, enforceable, tried and tested site management protocols.

Paragraph 7.42
Brow of hill and gradient creates visibility concern

3.22 The impact of the vertical and horizontal alignment of the carriageway has been taken into account when designing the site access to relevant design standards based on the empirical traffic survey and speed data.

Paragraph 7.43
The vertical alignment of Wolverley Road has not been considered in respect of visibility. Evidence of both horizontal and vertical visibility should be demonstrated

3.23 Contrary to this unfounded assertion, the vertical alignment of Wolverley Road has been considered and the evidence presented with the TS, as demonstrated by the long-sections provided at Appendix E of the Transport Statement (see last 3 pages of pdf file), as explained in paragraph 5.5 of the report.

3.24 This information was reviewed in the context of the relevant design guidance and accepted by both the Highway Authority and an independent Road Safety Audit Team as being acceptable to maintain road safety to appropriate levels.

Paragraph 7.44
The Safety Audit should be read carefully. There is a divergence of opinion as to the suitability of a right hand turn for access into the site between Hurlestone and Royal Haskoning

3.25 I have reviewed the Safety Audit and remain unsure where this alleged divergence of opinion occurs. The RSA describes the right turn into the site at paragraph 1.1.6. It simply describes the proposed access arrangement and permitted movements. There does not appear to be any divergence from the TS in this regard.

Paragraph 7.45
Safety Audit provides significant additional information on the number of traffic accidents in the area…and indicates there are significant local highway safety issues

3.26 The TS primarily concentrates on the suitability of the local road network to accommodate the introduction of the additional HGV traffic associated with the site. Accordingly, given the observed HGV activity, the collision review focuses on whether HGV movement along the road has led to significant highway safety impacts.

3.27 The addition of daily trips associated with 8 staff to the network is insignificant in the local context.

3.28 The Safety Audit reviewed all collisions and did not indicate there are significant local highway safety issues. Paragraph 1.1.11 of the Safety Audit confirms: "*Notably, the CrashMap database only contains collisions up to December 2019. As such, further details relating to any collisions in the vicinity of the proposed scheme would require independent verification by the Client, should the Local Highway Authority have any concerns relating to the collision history at this location."*

3.29 It is noteworthy that having reviewed both the TS and Safety Audit, the Highway Authority raised no concerns regarding safety impacts.

3.30 By way of an update since the application was submitted, the Crashmap data for the most recent 5 year period available (2017 – 2021 inclusive) revealed a reduction to 5 recorded personal injury accidents between the Sion Hill and A449 junctions with the B4189 Wolverley Road.

3.31 One accident classified as serious occurred at the Sion Hill junction in November 2018. There were no accidents along the B4189 between the Sion Hill and A449 junctions, with 4 accidents at the A449 junction (3 classified as slight, 1 as Serious). The slight accidents occurred in October 2017, July 2018 and March 2019. The serious accident occurred in October 2020.

3.32 The slight accident in October 2017 involved an HGV and was as reported at paragraph 4.2 of the Transport Statement.

3.33 The absence of any further accidents involving HGVs and a reduction in overall accidents over a 5 year period supports the conclusion reached in the Transport Statement, as accepted by the Safety Audit and Highway Authority.

3.34 Whilst all accidents are regrettable, the number of personal injury accidents recorded is not considered to be unusually high based on the usage of the road network, nor can it support a conclusion that the road network is of an unacceptable design standard.

Paragraph 7.46
Routeing vehicles through the AQMA is a negative impact

3.35 I am instructed that Air Quality issues are being dealt with by an Air Quality Expert.

Conclusion

3.36 I trust, having reviewed the highway-related points raised by STQC and my responses, supported by the technical evidence considered during the course of the planning application, and having regard to all national and local planning policy and guidance on highways, that the Inspector agrees with my own conclusion, and that of the Council, that the impact of the quarry insofar as highway matters are concerned is acceptable and the Appeal should not be refused on highway grounds.

Appendix 4 – Updated Ecological Walkover Survey and Biodiversity Net Gain Assessment

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 Ltd

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"

Appeal Ref. APP/E1855/W/22/3310099

Addendum to Ecological Impact Assessment

January 2023

Heatons
Planning Environment Design

ECOLOGY ADDENDUM

1 Introduction

1.1.1 Prior to the drafting of this addendum, an updated Phase 1 Habitat Survey of the site was conducted on the 16th of January 2023. The findings of the updated habitat survey were used to determine if any material change to the site had occurred since the Preliminary Ecological Appraisal (PEA) completed during 2019 or the Habitat Condition Assessment, conducted as part of the Biodiversity Metric 2.0 submitted in 2020. Additionally, the updated habitat survey was used to inform if there was any likely change in the occurrence, population size or distribution of protected/priority species since 2019. If it was considered that there was potential for material change in protected/priority species onsite this could impact upon the determinations set out in the Ecological Impact Assessment (EcIA).

1.1.2 This Addendum and its terminology are in accordance with the 'Guidelines for Ecological Impact Assessment in the UK and Ireland (CIEEM 2022)[1], and the Guidelines for Preliminary Ecological Appraisal (CIEEM 2017)[2].

1.1.3 This Addendum (and its associated figures and appendices) is not intended to be a standalone document and should be read in conjunction with the 2019 EcIA and the 2019 Preliminary Ecological Appraisal.

1.1.4 Additional relevant information to the determination of the scheme's ecological impacts is provided in the Appendices to this Addendum.

1.1.5 An updated Phase 1 Habitat map is provided in Appendix A.

1.1.6 Updated site photographs are provided in Appendix B.

1.1.7 A revised Biodiversity Metric Calculation is provided in Appendix C.

1.1.8 The updated metric has been undertaken utilising the latest Biodiversity Metric (Defra Biodiversity Metric 3.1). The Defra Metric 3.1 was published in April 2022 and replaces previously published 3.0 and 2.0 Biodiversity Metrics. Natural England advise[3] that *'Biodiversity Metric 3.1 has been extensively tested. Natural England will be recommending to the Secretary of state that Biodiversity Metric 3.1 forms the basis of*

[1] Chartered Institute of Ecologist and Environmental Managers, (2022), Guidelines for Ecological Impact Assessment, Version 1.2, Available at: Guidelines for Ecological Impact Assessment (EcIA) | CIEEM

[2] Chartered Institute of Ecologist and Environmental Managers, (2017), Guidelines for Preliminary Ecological Appraisal (GPEA), Available at: Guidelines for Preliminary Ecological Appraisal (GPEA) | CIEEM

[3] Natural England, (2021), The Biodiversity Metric 3.1 (JP039), Available at: The Biodiversity Metric 3.1 - JP039 (naturalengland.org.uk)

the statutory biodiversity metric used to underpin future mandatory biodiversity net gain as set out in the Environment Act 2021'.

1.1.9 This Addendum confirms the current baseline ecological conditions on site, and within its surrounding, remain broadly as described within the 2019 EcIA.

1.1.10 This addendum concludes that the assessments 'of the likely significant effects' (detailed with the 2019 EcIA) remain correct, and the ecological evidence underpinning these determinations should still be viewed as robust.

1.1.11 This Addendum demonstrates the schemes continued conformity with all relevant ecological policy and legislation.

2 Baseline Conditions

2.1 Habitats

2.1.1 An updated Phase 1 Habitat Survey was conducted on the 16th January 2023, by Director of Ecology Justine Walsh (BSc Hons) and Amy Tose (BSc Hons, qualifying member CIEEM). The updated habitats recorded are mapped and referenced within the PEA report (Heatons, 2023). The Phase 1 Habitat Survey followed the standard methodology (JNCC, 2016)[4], and as described in the Guidelines for Preliminary Ecological Assessment (CIEEM, 2017)[5]. This comprised of a walk over survey of the site during which habitat types, habitat conditions and boundary features were identified and mapped.

2.1.2 The survey confirmed the current habitats on site to broadly remain the same as those identified within the 2019 EcIA and are considered to offer the same value to the same species groups as reported previously. None of the further survey data elevated or reduced previous assessment in respect of importance of ecological features with regards to species or habitats.

2.1.3 The survey was conducted during a period considered to be sub optimal (January). However, due to ease of identification of the majority of habitats present across the site and extensive previous ecological assessment conducted, the 'time of year' is not considered to be a limiting factor on the validity of any conclusions drawn.

2.1.4 The habitats present across the site are summarized below. Composition of main species present is also provided and are detailed in accordance with the JNCC's DAFOR scale[6].

- Arable
- Semi-improved grassland
- Improved grassland
- Tall ruderal
- Defunct hedgerow
- Hard standing

[4] Joint Nature Conservation Committee (2016), Handbook for Phase 1 Habitat Survey, Available at: Handbook for Phase 1 habitat survey (jncc.gov.uk)

[5] Chartered Institute of Ecologist and Environmental Managers, (2017), Guidelines for Preliminary Ecological Appraisal (GPEA), Available at: Guidelines for Preliminary Ecological Appraisal (GPEA) | CIEEM

- Bare ground
- Standing trees
- Woodland
- Bracken
- Bramble

2.1.5 Composition of main species present is also provided and are detailed in accordance with the JNCC's DAFOR scale[7] .

2.2 Arable

2.2.1 The site primarily comprised of arable fields. At the time of the survey, all crops had been harvested and the fields retained winter stubble.

2.2.2 The previous assessment of arable land as 'important at the site level only' remains appropriate.

2.3 Semi improved Neutral Grassland

2.3.1 Semi-improved neutral grassland formed the field boundaries along the edges of several arable fields on the western and northeastern area of the site. Cock's foot (*Dactylis glomerata*) and Yorkshire Fog (*Holcus lanatus*) were dominant throughout. Scattered patches of bramble (*Rubus fruticosus*) scrub were occasional along the boundaries of the grasslands.

2.3.2 The previous assessment of the semi-improved grassland as 'important at the site level only' remains appropriate.

2.4 Improved Grassland

2.4.1 Two areas of improved grasslands fields were present on the eastern part of the site. The fields were separated by a famers track (bare ground). This grassland had limited vegetative species diversity being dominated by Perennial rye grass (*Lolium perenne*). The area was intensively grazed by horses resulting in a uniformly short sward height (approx. 10mm) throughout. The grassland showed evidence of nutrient enrichment.

2.4.2 The previous assessment of the improved grassland as 'important at the site level only' remains appropriate.

[7] Joint Nature Conservation Committee (2008), UK Terrestrial Biodiversity Surveillance strategy, Vegetation sampling, Available at: Vegetation Sampling Workshop (jncc.gov.uk)

2.5 **Tall ruderal**

2.5.1 Three areas of tall ruderal vegetation were present within the site.

2.5.2 One area ran parallel with a section of the sites northeastern boundary and is dominated by Common sorrel (*Rumex acetosa*) with bramble also frequent. Hogweed (*Heracleum sphondylium*) and Cock's-foot were also present but occasional with creeping thistle also present but rare.

2.5.3 A second area of tall ruderal occurred between the two improved grassland fields, with it also extending along the eastmost boundary of the southern field. The habitat was similar in its vegetative species assemblage the north tall ruderal area (described above). Nether area contained invasive species[8].

2.5.4 A third area surrounded a section of hard standing and improved grassland in the south of the site. This area was dominated by dense bramble growth with Buddleia (*Buddleja davidii*) and willow scrub (*Salix*) also being present but rare.

2.5.5 The previous assessment of tall ruderal being 'important at the site level only' remains appropriate.

2.6 **Defunct hedgerow**

2.6.1 A defunct species poor hedgerow was located in the eastern half of the site running west to east between two arable fields. This hedgerow was between 2m to 3m in height with a width of between 1.5m to 2m. The hedgerow was unmanaged with frequent and large gapes along its length. Its woody vegetation was dominated by hawthorn (*Crataegus monogyna*) with elm (*Ulmus procera*) present but rare.

2.6.2 A second defunct hedgerow occurred along the sites northeastern boundary, running west to east. Its vegetative composition was similar to the other defunct hedgerow (in the east of the site, detailed above). However, elder (*Sambucus nigra*) also comprised part of its woody vegetation, but only occurring occasionally.

2.6.3 The previous assessment of hedgerows as 'important at the site level only' remains appropriate.

2.7 **Standard trees**

2.7.1 There were a number of mature and semi-mature scattered trees recorded across the site including oak (*Quercus robur*), Beech (*Fagus sylvatica*), Sweet chestnut (*Castanea sativa*), Lime (*Tilia sp*.), Redwood (*Sequoia sp*.) and Conifers.

[8] As listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended)

2.7.2 Several mature trees displayed ecologically desirable characteristics, including broken / split limbs, woodpecker holes, hollow interiors, standing deadwood etc. This allows for the trees to support a greater range of protected and priority fauna species (i.e., bats, birds, invertebrates).

2.7.3 Due to their features these trees are to be considered to be in 'good' condition to support biodiversity.

2.7.4 The semi-mature trees lacked the desirable ecological features of the mature trees. However, they are still considered to potentially support a range of species. As such, these trees are considered to be in 'moderate' condition.

2.7.5 The previous assessment of the semi-mature trees being 'important at the site level only' remains appropriate.

2.7.6 The mature trees are considered to be 'important at a local (borough) level'.

2.8 Hard standing and bare ground

2.8.1 There is a hard standing track present towards the centre of the site that separates the eastern and western sides.

2.8.2 An area of hard standing also occurs in the south of the site and is frequently in use by the farmer for storing materials, machinery, and stock piling soil.

2.8.3 The hard standing and bare ground were assessed as being of negligible importance.

2.9 Woodland

2.9.1 Two areas of woodland were present within the site boundary.

2.9.2 An area of broadleaved woodland occurred adjacent to the sites northwestern boundary and an of plantation woodland was present along the southwestern boundary.

2.9.3 For both woodlands the habitat descriptions and species compositions remain consistent with those detailed within the 2019 PEA.

2.9.4 Additionally, the habitat condition assessment for both woodlands remain consistent with those detailed within the 2020 biodiversity metric 2.0.

2.9.5 In line with previous determinations, within the 2019 EcIA, both areas of woodland are considered to be of Local importance (borough level).

2.9.6 The intention remains that both areas of woodland are retained and enhanced as part of the scheme.

2.10 **Bracken**

2.10.1 An area of bracken is present in part along the southern boundary of the site, adjacent to a brick wall. The area is dense in nature and is approximately 2m to 3m in width.

2.10.2 The area of bracken is considered of negligible importance.

3 Biodiversity Impacts

3.1 Likely Significant Effects (Fauna)

3.1.1 With the context of the 2019 EcIA, an effect is considered to be potentially significant upon a species if it could result in a change to its conservation status or the degree of integrity of any important ecological feature.

3.1.2 There is not considered to be any material change in the habitats currently on site or to the habitats proposed to be created/restored as part of the restoration scheme. As the habitats and ecological features on site have not materially altered, it is considered unlikely that the presence and abundance of protected and priority species has changed (either in their type or distribution) from that determined during previously undertaken surveys (2019 and 2020).

3.1.3 The conclusions of the 2019 Ecological Impact Assessment are deemed to still be valid.

3.2 Biodiversity Net Gain & Ecological Enhancement

3.2.1 An updated quantitative assessment of biodiversity impacts was undertaken using Biodiversity Metric 3.1 Calculation (Appendix C). Metric 3.1 determined the sites 'Baseline Score' as being 115.93 Biodiversity Units (BU) for habitats, and 74.84 Hedgerow Units (HU) for hedgerows. These values were calculated based upon the updated phase 1 mapping and habitat condition assessment completed in January 2023.

3.2.2 Once the existing habitat baseline is determined, the metric quantifies the likely biodiversity net gain/loss for the proposed scheme's delivery based upon its indicative layout and the restoration and ecological mitigation measures proposed. Metric 3.1 allows for the habitats on site (both current and future planned) to be described in terms of distinctiveness, condition and strategic significance.

3.2.3 Delay factors relating to the commencement of future habitat creation/restoration/enhancement can also be imputed as variables within the metric as these can also have a material effect on predicted future net-biodiversity values on site. This is particularly relevant for this scheme, as the phasing plans allow for significant temporal variation in the likely commencement date of different areas of proposed habitat creation/restoration/enhancement.

3.2.4 The previous Biodiversity Metric 2.0 did not allow for the accounting for any delay factors, and was less precautionary in the timescale that it deemed habitat creation

and enhancement could be delivered. As such Metric 3.1 is significantly more conservative in the scale of its measurable gains, and as such can be viewed as more robust as it is more representative of a 'worst case scenario' as regards the scheme's biodiversity impacts.

3.2.5 The outputs of the updated Biodiversity Metric 3.1. are summaries below:

HABITATS:

- Existing Baseline = 115.93 Biodiversity Units
- On-site Post-Intervention= 161.51 Biodiversity Units
- Total Net Unit Change (B-A) = +45.58 Gain of Biodiversity Units

HEDGEROWS:

- Existing Baseline= 2.74 Hedgerow units
- On-site Post-Intervention= 5.68 Hedgerow Units
- Total Net Unit Change (B-A) = +2.94 Gain of Hedgerow Units

3.2.6 The Biodiversity Metric 3.1 demonstrates the proposed scheme will deliver a likely substantial net gain for biodiversity of **+39.31% BU** for habitats, and **+107.51% HU** for hedgerows.

3.2.7 This significant 'likely' net gain is due to areas of low distinctiveness arable land, improved grassland, scrub and tall ruderal vegetation being replaced by high distinctiveness acid grassland, woodland, parkland, waterbodies and the plating of scattered trees.

3.2.8 Existing ecological functionality will be maintained at the site via the retention of the hedgerow and woodland networks and further enhanced through new hedgerow planting and the creation of additional woodland areas and scattered trees.

3.2.9 These measures will ensure that there is wider landscape habitat connectivity and that suitable habitat resources are available for protected species (bats, birds, small mammals, invertebrates, herpetofauna, etc.).

3.2.10 The phased nature of the development will limit the total duration of works/disturbance within each section of the site allowing for the restoration habitats (in one location or another) to occur continuously after the completion of the first phase. Meaning that the combined adverse impacts upon mobile site fauna is likely to be reduced as areas of refuge are always available.

3.2.11 The conclusions of the 2019 EcIA are deemed to still be valid in that the scheme should deliver a significant long-term gain in site biodiversity value.

4 Conclusion

4.1.1 This addendum demonstrates (via presentation of updated habitat type and condition assessment), that the conclusions detailed within the previous the 2019 Ecological Impact Assessment remain both accurate and robust.

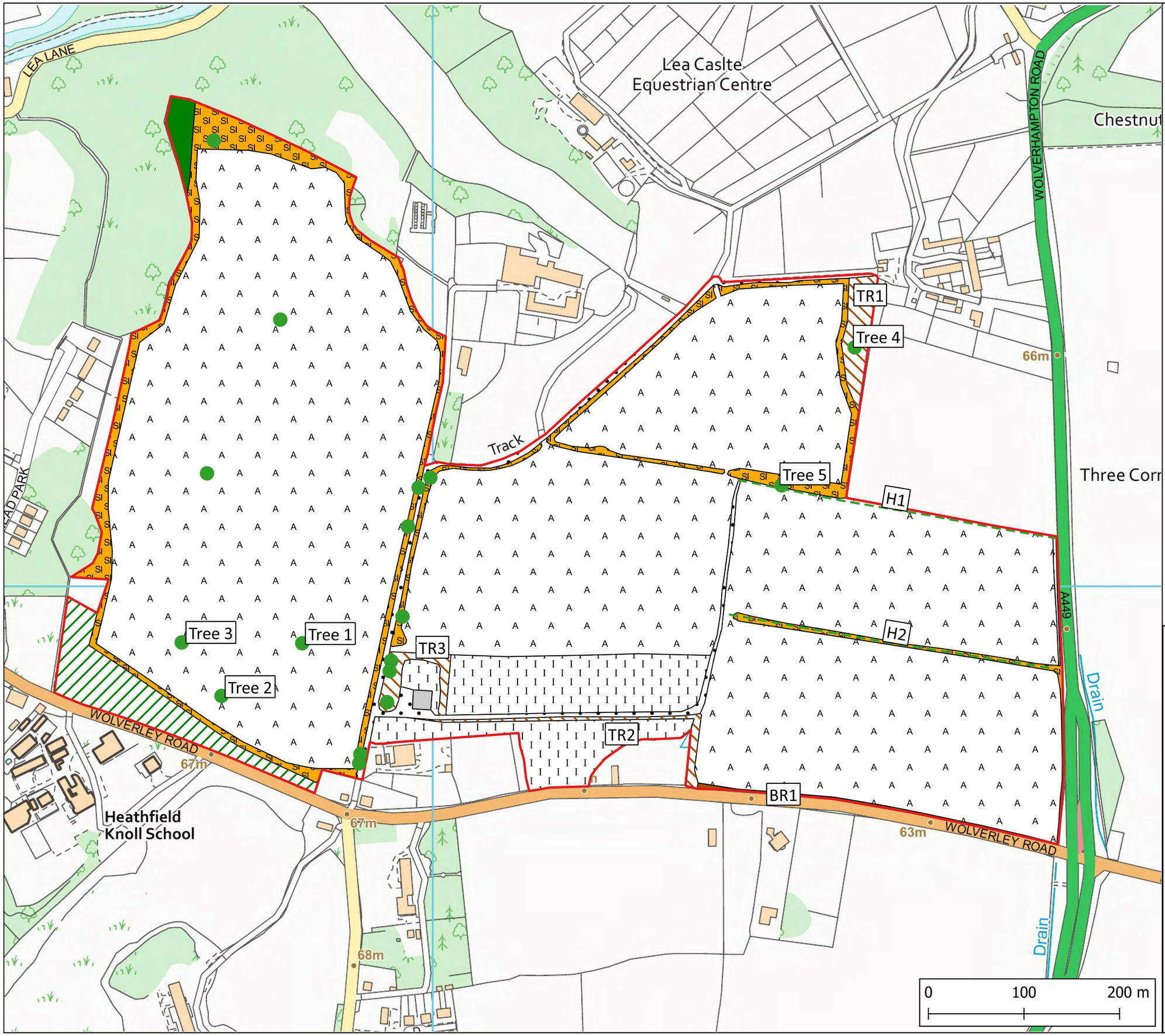
4.1.2 The site remains materially unchanged in importance since previous assessments and is likely to support the same species assemblages and populations as previously determined.

4.1.3 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.

4.1.4 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 2021[9].

[9] Environment Act 2021, Available at: Environment Act 2021 (legislation.gov.uk)

Appendix A – January 2023, Phase 1 Habitat Map, REF: ED.001



- Red Line Boundary
- Scattered Tree
- Defunct hedge - species-poor
- Broadleaved woodland - semi-natural
- Broadleaved woodland - plantation
- Neutral grassland - semi-improved
- Improved grassland
- Bracken - continuous
- Tall ruderal vegetation
- Arable
- Bare ground
- Hardstanding

Heatons
Planning Environment Design

PROJECT

LEA CASTLE FARM APPEAL

DRAWING TITLE

PHASE 1 HABITAT MAP

DATE	REFERENCE
JANUARY 2023	ED.001

SCALE
1: 3750 @ A3

STATUS
FINAL

Heatons The Arc, 6 Mallard Way, Pride Park, Derby. DE24 8GX
www.heatonplanning.co.uk

Appendix B – Site Photographs

Broad-leaved plantation woodland located in the south-west corner of the site.

Broad-leaved semi-natural woodland located in the north-west corner of the site.

TR1 located in the north-east corner of the site.

Improved grassland area, intensively grazed by horses.

Area of hard standing, bare ground track and TR3.

Defunct species-poor hedgerow.

Arable cultivated land, that covers the majority of the site.

Area of bracken found in part along the southern boundary.

Appendix C – Biodiversity Net Gain Assessment