

**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**

**Proof of Evidence of Tim Partridge MRTPI
for Stop The Quarry Campaign – Rule 6 Party
Planning Matters**

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

**Proposed sand and gravel quarry with progressive restoration using site
derived and imported inert material to agricultural parkland, public access
and nature enhancement**

Application reference: 19/000053/CM

Appellant's name: NRS Aggregates Ltd

Appeal reference: APP/E1855/W/22/331009

29 January 2023

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1.0 Qualification

- 1.1 My name is Tim Partridge, I hold a BA (Hons) Degree in Town Planning and a Diploma in Planning Studies. I am a member of the Royal Town Planning Institute, having been elected in 1990. I have been a practising town planner for over thirty years, dealing with complex major developments with Green Belt, landscape, transport and other environmental issues. I was formally Senior Director and Operational Director at RPS, one of the countries largest environmental and development consultancies. I am currently a Planning Director at a Footsie 100 commercial development company.
- 1.2 I have experience of giving evidence and assisting in planning appeals and public inquiries and giving planning evidence in court proceedings. Latterly, the UK Supreme Court handed down judgement in the case of DB Symmetry v Swindon BC which supported my case in the original application.
- 1.3 I have lived in the local area most of life and have been a resident of Wolverley for the last 5 years. I am familiar with the site passing it on an almost daily basis and regularly walking the public footpath network crossing the site.

2.0 Introduction

2.1 My evidence is concerned with the following matters raised in the STQC SoC.

- Policy
- Sustainability
- Landscape and Visual
- Restoration
- Green Belt
- Alternatives
- Sterilisation
- Need and Landbank
- Cumulative Impacts

2.2 Document referred to

- NPPF
- Worcestershire Minerals Local Plan 2018 - 2036
- Wyre Forest District Local Plan 2016 - 2036
- MLP SA
- Worcestershire Landscape Character Assessment
- Worcestershire Historic Landscape Characterization
- The Worcestershire Landscape Character Assessment Supplementary Guidance August 2012
- Lee Castle EIA Scoping Opinion
- North Lodge Listing
- Letter Of Objection From STQAG

2.3 Legal cases referred to

- (R (Samuel Smith Old Brewery (Tadcaster) and Oxtan Farm) v North Yorkshire County Council and Darrington Quarries Ltd [2018] EWCA
- Attorney General ex rel Sutcliffe and others v Calderdale BC 1982
- Debenhams PLC V Westminster CC 1987

2.4 Appeal Decisions referred to

- Land At Ware Park, Wadesmill Road, Hertford APP/M1900/W/17/3178839
In respect of which the Secretary of State attached weight to operational development in respect of openness. And artificial landscape.
- Land at Hatfield Aerodrome, off Hatfield Road Appeal Ref: APP/M1900/W/21/3278097
In respect of the weight afforded need.
- Pave Lane Quarry, Pave Lane, Newport, Shropshire TF10 9AX Appeal Ref: APP/C3240/W/17/3167459
In respect of landscape impact.

3.0 Policy

National policy with NPPF

3.1 Green Belt issues in respect of quarries is addressed later in my evidence.

3.2 In respect of non-Green Belt matters the NPPF says at paragraph 211,

“ In considering proposals for mineral extraction, minerals planning authorities should:

b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;

e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances. “

The Development Plan

3.3 As we are aware S34 of TCPA states that decisions must be made in accordance with the development plan unless >>>>.

3.4 In this case, at this time, the development plan is,

- Worcestershire Minerals Local Plan 2018 - 2036
- Wyre Forest District Local Plan 2016 - 2036

3.5 When the application was being considered the development plan was Adopted County of Hereford and Worcester Minerals Local Plan 1997. The report to committee is fatally flawed by disregarding the adopted local emphasis in an emerging local plan. The legal status of the plans was not spelt out to members. The advice of the officer must therefore be questioned as a result.

3.6 However, a decision on the current appeal must be made on the basis of the development plan current at the time the decision is made.

Worcestershire Minerals Local Plan

3.7 Worcestershire County Council adopted the Worcestershire Minerals Local Plan (MLP) on 14th July 2022. The objectives of the MLP are;

- MO 1. Enable the supply of minerals
- MO 2. Protect and enhance the environmental and socio-economic function of Worcestershire's network green spaces and natural elements (green infrastructure)
- MO 3. Protect and enhance the quality, character and distinctiveness of the built, historic, natural and water environment
- MO 4. Protect and enhance the health, well-being, safety and amenity of people and communities
- MO 5. Protect and enhance the vitality of the local economy
- MO 6. Ensure the prudent use of natural resources

3.8 The objectives balance the supply of minerals with protection of the environment and amenity.

3.9 On the Key Diagram the appeal site lies within the North Worcestershire Strategic Corridor and Area of Search for Solid Sand and Gravel and Silica Sand.

3.10 Policies need to be considered sequentially or as a whole, it would be incorrect to look at one single policy to claim support of a proposal from the Minerals Local Plan (MLP). Proposals need to meet the policies of the plan as a whole. The starting point being whether sites are allocated in the Mineral Site Allocations Development Plan Document.

3.11 Policy MLP 2: Strategic Location of Development – Specific Sites and Preferred Areas states that specific sites and preferred areas will be allocated in a separate Mineral Site Allocations Development Plan Document and defined on the Policies Map. Planning permission will be granted for new mineral developments and extensions to extant sites within allocated specific sites. Planning permission will be granted for new mineral developments and extensions to extant sites within allocated preferred areas where certain criteria apply. The starting point therefore is for sites or preferred areas to be allocated in the development plan.

3.12 Paragraph 4.16 -4.19 states,

“Policy MLP 2 sets a policy preference for mineral development in specific site and preferred area allocations within the five strategic corridors. Within this, it sets a hierarchy which prioritises development on mineral allocations with the highest levels of certainty (specific sites), and enables development on mineral allocations which have less certainty (preferred areas) where any of the criteria in part b of the policy are met.

A Mineral Site Allocations Development Plan Document (DPD) will be prepared to allocate specific sites and preferred areas in order to help facilitate mineral development and provide certainty for communities and developers about where mineral development is likely to be considered acceptable during the life of the Minerals Local Plan, subject to the policies in other parts of the Development Plan (including other policies within the Minerals Local Plan) being satisfactorily addressed. The level of certainty that mineral development will come forward will be high for specific sites, and fairly high for preferred areas.

Specific sites provide certainty on when and where mineral development is most likely to take place. Sites will only be allocated as specific sites where viable resources are known to exist, landowners are supportive of minerals development and proposals are considered likely to be acceptable in planning terms after being considered against a set of site-selection criteria.

However, the fact that a site has been allocated will not override the need to ensure that the development proposed is sustainable. Detailed planning applications will be required and will be considered on their individual merits against the policies of the Development Plan (including other policies within the Minerals Local Plan).” (Emphasis added)

3.13 Policy MLP 3: Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors is part of that hierarchical approach. Planning permission will be granted for new mineral developments within allocated areas of search where there is a shortfall in supply as demonstrated by Part C. Part C provides a shortfall in supply will be considered to exist where 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.

3.14 As is common with strategic plans the MLP sets out a broad framework but relies on a detailed assessment of sites in a Sites Allocation Plan to allocate specific land where planning permission would be suitable.

- 3.15 In addition to being allocated or demonstrating a need beyond land that is allocated in the Site Allocations Plan, windfall sites need to meet a number of criteria in further MLP policies.
- 3.16 Policy MLP 7: Green Infrastructure. Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and enhance networks of green infrastructure throughout the life of the development.
- 3.17 The delivery of multiple benefits is required taking account of the local economic, social and environmental context of the site; including opportunities to protect and enhance inherent landscape character; conserve, restore and enhance ecological networks and deliver net gains for biodiversity; conserve and enhance heritage assets and their setting; enhance the rights of way network.
- 3.18 My evidence and that of other will show how the proposal fails to meet these positive benefits.
- 3.19 Policy MLP 11 is concerned with the North West Worcestershire Strategic Corridor containing the appeal site.
- 3.20 Planning permission will be granted for mineral development within the North West Worcestershire Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.
- 3.21 The proposed development will be required to demonstrate how, throughout its lifetime, the site will make to delivery of green infrastructure priorities including to conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines;
- 3.22 Proposals should demonstrate how the development will deliver these priorities at each stage of the site's life, and why the proposed scheme is considered to be the optimal practicable solution. Where site-specific circumstances and/or other policies in the development plan limit the ability to deliver one or more of the priorities, this should be clearly set out in the assessment.
- 3.23 Policy MLP 26: Efficient Use of Resources says that mineral development will need to take account of the ability to provide a stable and appropriate landform for beneficial after-use; the ability to deliver high-quality restoration at the earliest opportunity; the appropriateness of importing fill materials on to site, and the likely availability of suitable fill materials; the need to protect and enhance inherent landscape character; and the need to manage or mitigate impacts on the built, historic, natural and water environment and amenity.
- Mineral Site Allocations Development Plan Document (DPD)
- 3.24 Worcestershire County Council is preparing a Mineral Site Allocations Development Plan Document (DPD). Once completed the DPD will allocate specific sites and preferred areas for mineral development to support the delivery of the Worcestershire Minerals Local Plan and provide greater certainty about where mineral development will take place. It will be used alongside the Minerals Local Plan to determine planning applications.
- 3.25 A 'Call for Sites' ran from 16 January 2020 until 13 March 2020. Following consultation on a proposed methodology for site allocations in 2018/19, the site options are now being assessed. A range of technical evidence is being gathered to inform a "Preferred Options" draft of the DPD. This draft will show how each site performs against site selection criteria and will set out draft policy wording.

- 3.26 The “Preferred Options” draft will be accompanied by a Sustainability Appraisal (SA) that will consider the potential economic, social, and environmental effects of the DPD. It will inform the DPD by helping to maximise its benefits and avoid or minimise potential adverse effects. An SA Scoping Report, the first stage of the SA process, sets the framework against which the DPD will be appraised.
- 3.27 Consultation on the SA Scoping Report took place from 28 June 2021 to 9 August 2021. The current Local Development Scheme (2022) came into effect on 1 July 2022. The LDS states a Publication (Regulation 19 & 20) plan is anticipated Q3-Q4 2024, a Submission (Regulation 22) plan is anticipated Q1-Q2 2025.
- 3.28 NPPF advises on the weight to be attached to emerging plans, no weight can be attached to the draft allocations plan.
- 3.29 In respect of the appeal site we know the local planning authorities views on the suitability of the site for sand and gravel production at this time. The local planning authority raised significant concerns regarding the sites suitability for mineral production at this time.
- 3.30 It would be unreasonable for the local planning authority to reverse that position unless there were material changes in circumstances to justify this. Were the plan to allocate the appeal site it would be unsound legally and any decision to adopt it would be challenged in the courts.
- 3.31 Furthermore, given the appeal sites poor sustainability score it should not be allocated.
- Wyre Forest Local Plan
- 3.32 The Wyre Forest Local Plan was adopted in April 2022. The whole of the appeal site is within the Green Belt and within the villages of Cookley and parts of Wolverley. The policies map shows the Lea Castle Strategic Allocation site extended to the Wolverhampton road opposite the appeal site.
- 3.33 The site is allocated for development of a sustainable village of high quality design. The development of Lee Castle village of around 1400 new dwellings (600 of these already have planning permission), provision of around 7 hectares of employment development, around 2 hectares for a 420 place primary school and creation of village centre
- 3.34 The Policies Map shows the conservation area along the canal to the West of the appeal site.
- 3.35 Relevant policies include

Policy SP .2 - locating new development

The Spatial Development Strategy and the site allocations in this Plan (as described by Policies SP.3 – SP.6) are based upon the following principles:

- d. Safeguard and (wherever possible) enhance the open countryside.
- e. Maintain the openness of the Green Belt (as identified on the Policies Map).
- g. Protect from development areas that are sensitive because of their landscape, heritage assets or biodiversity.

Policy SP.6 - Role of the existing villages and rural areas

The Rural Economy

- a. The rural economy will be supported by promoting development which contributes to rural employment sectors as well as encouraging appropriate farm diversification schemes.

- b. Development proposals will not be permitted where they would be likely to have direct and significant impact on the District's best and most versatile agricultural land.
- c. Historic farmsteads will be protected from inappropriate development (for details refer to Policy DM.23 and Policy DM.29).

Policy SP.16 - Health and Wellbeing

Development should help minimise negative health impacts and maximise opportunities to ensure that people in Wyre Forest District lead healthy, active lifestyles and experience a high quality of life.

Policy SP.17 - A Diverse Local Economy

8. Proposals for expansion, updating and intensification of employment uses on existing sites will be supported where they do not compromise the activities of the employment area or conflict with other policy objectives.

9. Rural employment sites will be safeguarded for employment uses where appropriate. Proposals for small scale employment of less than 500 sqm in rural areas will be assessed on their merits and should have regard to accessibility by public transport and national policy as well as other Development Plan Policies (such as Policy DM.10). The use of previously developed land will be supported where suitable sustainable, accessible opportunities exist.

Policy SP.19 - Sustainable Tourism

Support will be given to proposals that improve the quality and diversity of existing visitor/tourist facilities, attractions, accommodation and infrastructure, where development is compatible with the physical character of the area and does not cause any unacceptable impacts.

9.28 Tourism is an important element within the overall economy of the area. Each year more than 119 million visits are made to the region, generating over £121 million to the local economy and offers employment to more than 2,100. During 2014 2.5 million trips were undertaken to Wyre Forest District comprising 2.3 million day trips and 0.2 million overnight visitors. £64 million was spent by day visitors and £23 million by overnight visitors. The local visitor economy supports 2,138 jobs within the area. It is recognised that the Historic Environment is a strong contributor to the economic benefits of the District resulting from Heritage Tourism.

9.29 The visitor economy creates new and additional services that can lead to the creation and growth of businesses in the area. Tourism also helps to support the high level of employment that is found in the region.

9.30 A strong visitor economy can support regeneration projects, additional facilities and services for visitors. This also provides local people with these same facilities that can enrich the life of local communities.

9.31 The majority of visitors to Wyre Forest District visit on day trips and do not stay overnight. Day trips are important but the short break market needs to be supported and encouraged to expand which would help to secure greater economic benefits for the area as a whole.

Policy SP.20 - Quality Design and Local Distinctiveness

Creating and Reinforcing Local Distinctiveness Wyre Forest District has an existing character that is determined by the qualities of the existing buildings and landscape. New

development should respond to these existing qualities and ensure that it represents a positive addition to the streetscape or landscape. Where the existing context is weak or negative, it is important that new development demonstrates an improvement in the quality of the area. Guidance is provided in the District's Adopted Design Guidance Supplementary Planning Document 2015.

Policy SP.21 - Historic Environment

Development proposals should protect, conserve and enhance all heritage assets and their settings, including assets of potential archaeological interest, subject to the provisions of Policy DM.23 (Safeguarding the Historic Environment). Their contribution to the character of the landscape or townscape should be safeguarded and protected in order to sustain the historic quality, sense of place, environmental quality and economic vibrancy of Wyre Forest District. In particular this applies to:

- a. Designated heritage assets; i.e. listed buildings, conservation areas, scheduled monuments, registered parks and gardens and registered battlefields; also non-designated heritage assets (including those identified on the District's Local Heritage List or for which a Historic Environment Record exists), and their settings.
- b. The historic landscape, including locally distinctive settlement patterns, field systems, woodlands and commons and historic farmsteads, smallholdings and their settings.
- c. Designed landscapes, including parkland, gardens, cemeteries, churchyards, public parks, urban open spaces and industrial, military or institutional landscapes, and their settings.
- d. Archaeological remains of all periods.
- e. Historic transportation networks and infrastructure including roads and track-ways, canals, river navigations, railways and their associated industries, and their settings. Wyre Forest District 78 Wyre Forest District Local Plan (2016-2036) - Adopted April 2022 10 A Unique Place.
- i. The rural villages within the District, including their associated Conservation Areas and buildings, along with their settings and historic views to and from the surrounding countryside.

Policy SP.23 - Protecting and Enhancing Biodiversity

Policy SP.24 - Protecting and Enhancing Geodiversity

New development must strive to enhance and not have a detrimental impact on the geodiversity of the District

Policy SP.25 - Regenerating the Waterways

1. Rivers. All proposals for development in or adjacent to the District's rivers and/or within an area at risk of flooding must also conform with Policy SP.31. Rivers are to be enhanced in accordance with Green Infrastructure, Biodiversity and Water Management Policies. Development which opens up views and enhances the landscape and biodiversity of the River Stour in Kidderminster and Stourport-on-Severn will be encouraged. Development which preserves and enhances the historic riverside character of the Bewdley Conservation Area will be encouraged. Development proposals which preserve and enhance the character of the Stourport No.1 Conservation Area adjacent to the River Severn will be encouraged.

2. Staffordshire and Worcestershire Canal Developments and initiatives that make a positive contribution to the creation of an attractive and high quality canal-side environment will be supported.

Conclusion

3.36 The appeal proposals do not conform to the development plan when taken as a whole. Sites need to come forward through the Sites Allocations Plan and this has not advanced such that any weight can be attached.

4.0 Sustainability

4.1 The MLP SA sets out the expectations for sites. The appeal site lies in Area of Search SSSG17, this is an extensive area of search covering a large area of land east of Kidderminster. Adjacent to SSSG17, between the appeal site and River Stour, is the more discrete area of SSSG10.

4.2 Below I refer to the sustainability objections in the SA Section 3 and the scores given in Section 6 of the Sustainability Appraisal of the Worcestershire Minerals Local Plan Publication Version Prepared by LUC May 2019.

SA Objective 1: Landscape

The SA objective on landscape is to "Safeguard and strengthen landscape character and quality and minimise negative visual impact".

4.3 SSSG17 scores "Significant negative impact"

4.4 SSSG10 scores "Significant negative impact"

SA Objective 2: Biodiversity and Geodiversity

3.12 This objective is to "Conserve and enhance Worcestershire's biodiversity and geodiversity".

4.5 SSSG17 scores "Significant negative impact"

4.6 SSSG10 scores "Significant negative impact"

SA Objective 3: Cultural heritage, architecture and archaeology

3.18 This SA objective is to "Preserve and enhance the historic environment and deliver well-designed and resource-efficient development which respects local character and distinctiveness".

4.7 SSSG17 scores "Significant negative impact"

4.8 SSSG10 scores "Significant negative impact"

SA Objective 4: Material assets

This SA objective is to "Ensure efficient use of land through safeguarding of mineral reserves, the best and most versatile agricultural lands, Green Belt land, maximising use of previously developed land and reuse of vacant buildings, whilst safeguarding open space/green infrastructure".

4.9 SSSG17 scores "Minor negative impact"

4.10 SSSG10 scores "Minor negative impact"

4.11 In respect of the appeal site this would, given its location in the Green Belt, on best and most versatile agricultural land, greenfield land, and not safeguarding open space/green infrastructure, should score Significant negative impact.

SA Objective 5: Natural resources

This SA objective is to "Protect and enhance water and air quality".

4.12 SSSG17 scores "Significant negative impact"

4.13 SSSG10 scores "Significant negative impact"

SA Objective 6: Climate change and energy

This SA objective is to "Reduce causes of and adapt to the impacts of climate change. Promote energy efficiency and energy generated from renewable energy and low-carbon sources".

- 4.14 There is no indication the appeal proposals are suggesting anything which adapts to the impacts of climate change. Or promotes energy efficiency and energy generated from renewable energy and low-carbon sources.
- 3.37 The appeal site should score "Significant negative impact".

SA Objective 7: Flooding

This SA objective is to "Ensure inappropriate development does not occur in high-risk flood-prone areas and does not adversely contribute to fluvial flood risks or contribute to surface water flooding in all other areas".

- 3.38 SSSG17 scores "Negligible or no impact"
- 3.39 SSSG10 scores "Negligible or no impact"

SA Objective 8: Access to services

This SA objective is to "Improve the quality of, and equitable access to, local services and facilities, regardless of age, gender, ethnicity, disability, socio-economic status or educational attainment".

- 3.40 SSSG17 scores "Significant negative impact"
- 3.41 SSSG10 scores "Significant negative impact"

SA Objective 9: Health and amenity

This SA objective is to "Improve the health and well-being of the population and reduce inequalities in health".

- 3.42 SSSG17 scores "Significant negative impact"
- 3.43 SSSG10 scores "Significant negative impact"

SA Objective 10: Waste

This SA objective is to "Manage waste in accordance with the waste hierarchy: 1) reduce, 2) reuse, 3) recycling and composting, 4) recovery, 5) disposal".

- 3.44 SSSG17 scores "Negligible or no impact"
- 3.45 SSSG10 scores "Negligible or no impact"

SA Objective 11: Traffic and transport

This SA objective is to "Reduce the need to travel and move towards more sustainable travel patterns".

- 3.46 The SA states (para 3.55),

"While the number of trips generated by employees and visitors to minerals sites may be relatively small, the movement of extracted material will require significant trips by heavy goods vehicles, if alternative transportation is unavailable or unviable. The nature of river terrace sand and gravel resources means that many sites are close to waterways, but whether or not water-borne transport is available will depend on a range of factors. Access to the waterway, volume of material being moved, and the location of navigable and non-navigable stretches of water will all influence the use of water-borne transport."

- 3.47 There is no provision in the appeal proposal for water based transport and the appeal site does not have a riparian frontage.
- 3.48 The appeal site should score Significant negative impact.
SA Objective 12: Growth with prosperity for all
This SA objective is to "Develop a knowledge-driven economy, the infrastructure and skills base whilst ensuring all share the benefits, urban and rural".
- 3.49 The SA (para 3.60) states,
" Negative effects from minerals development on growth and infrastructure are also possible if the location of minerals sites prevents or hinders other types of economic development."
- 3.50 The appeal site should score Significant negative impact.
SA Objective 13: Provision of housing
This SA objective is to "Provide decent affordable housing for all, of the right quality and tenure and for local needs, in clean, safe and pleasant local environments".
- 3.51 The SA (para 3.64) states,
" The delivery of housing could also be compromised if minerals development takes place too close to potential housing sites."
- 3.52 The HCA sponsored Lea Castle Hospital site will be compromised by the appeal proposal. The appeal proposal should score Significant negative impact
SA Objective 14: Participation by all
This SA objective is to "Provide opportunities for communities to participate in and contribute to decisions that affect their neighbourhood and quality of life, encouraging pride and social responsibility in the local community".
- 3.53 The community has sought to communicate and participate in and contribute to decisions affecting their neighbourhood and quality of life. The community, through STQC, their representations, the Parish Council, the District Council and County Council have objected to this proposal.
- 3.54 Over ruling this democratic process would score Significant negative impact.
SA Objective 15: Technology, innovation and inward investment
This SA objective is to "Promote and support the development of new technologies, of high value and low impact, especially resource efficient technologies and environmental technology initiatives".
- 3.55 The appeal proposals do not purport to use any innovative technology. The appeal proposal should score Significant negative impact
SA Objective 16: Population (skills and education)
This SA objective is to "Raise the skills levels and qualifications of the workforce".
- 3.56 The minimal level of employment is likely to transfer from other sites and will not raise skill levels or qualifications in the workforce. The proposals will damage the local tourist and service economy and destroy the equestrian centre leading to a loss of skills.
- 3.57 The appeal proposal should score Significant negative impact

SA Objective 17: Population (crime & fear of crime)

This SA objective is to "Reduce crime, fear of crime and antisocial behaviour"

- 3.58 The appeal proposal will introduce an industrial process into a secluded part of the countryside. There is a local perception this will attract crime and antisocial behaviour. The appeal proposal should score Significant negative impact.

Conclusion

- 3.59 In the MLP SA, SSSG17 is ranked 17th out of 29 Areas of Search for Sand and Gravel. The appeal site, in isolation, would rank far lower. The site, judged against the MLP sustainability criteria, is not sustainable.
- 3.60 The findings of the SA also bring into question the reliability of the appellants EIA given that most key issues score significant negative in the SA.

5.0 Landscape and Visual

- 5.1 Current assessment rolling hills in landscaped parkland. Forming the grounds of an 18th century Mansion built by one of the richest, most powerful industrialist of the age. The site sits close to the main sources of income along the Stour River.
- 5.2 Broom Covert lies to the east of the main entrance driveway. This has a height of around 85 metres and falls easterly to Wolverhampton Road at around 55 metres, and westerly towards the sports ground at 65 metres. The hill is a prominent and significant landscape feature
- 5.3 The site is contained by the historic walls and the listed entrance gatehouses. The site contains a number of historic specimen trees planted as part of the parkland design. This is an important, attractive and valued landscape.
- 5.4 The Parkland estate site is contained by the historic walls and the listed entrance gatehouses. The framework of it's landscape park survives. The site contains a number of historic specimen trees planted as part of the Parkland design. This is an important, attractive and valued landscape.
- 5.5 The appeal site is within the Sandstone Estatelands Character Area. These are open, rolling landscapes characterised by an ordered pattern of large, arable fields, straight roads and estate plantations. A key characteristic is the open rolling landscape, the appeal site is a stunning example of the landscape character. The proposal will completely destroy this character and introduce an alien landscape.
- 5.6 The proposal seeks to remove 1.7 million cubic metres of material replace this with 0.6 million cubic metres of material. The difference is the quantifiable impact on the landscape. The existing and proposed cross sections illustrate the incredible impact the development will have on the landscape. Replacing what is rolling countryside with a desolate flat crater. This will resemble the land on the west of Wolverley Road, at Court Quarry.

Minerals Local Plan (MLP)

- 5.7 Policy MLP 33 is concerned with Landscape and that planning permission will be granted where it is demonstrated that the proposed mineral development throughout its lifetime in cumulation with other development will **conserve and enhance the character and distinctiveness** of the landscape.
- 5.8 The proposed development will **not have an unacceptable adverse effect on the inherent landscape character**. The benefits of the proposal will be balanced against the significance of any impacts where the proposed development is likely to:
 - i. result in significant change to the **key characteristics of the landscape identified in the Worcestershire Landscape Character Assessment and Worcestershire Historic Landscape Characterisation**; or
 - ii. **introduce landscape features that conflict with, or dilute, the inherent landscape character** of the area.
- 5.9 MLP paragraph 515 states,

“Landscapes evolve over time as a result of natural and cultural processes including changes in patterns of land use, habitat networks and built development. Personal appreciation of the landscape and how individuals and communities relate to or make use of it are also important in defining sense of place and distinctiveness of an area. Landscape character is

defined by the variety of features and attributes that are distinctive, recognisable and with consistent patterns that give localities their sense of place. The key characteristics of landscape types within Worcestershire are set out in the Worcestershire Landscape Character Assessment. This is supplemented by the Worcestershire Historic Landscape Characterisation which identifies inherited historic character, its diversity and legibility in the modern landscape. Together these contribute towards the assessment and understanding of significance and value in the landscape.”

- 5.10 The Worcestershire Landscape Character Assessment Supplementary Guidance August 2012 includes the site in sandstone state lands area the character description is,

“These are open, rolling landscape characterised by an ordered pattern of large, arable fields, straight roads and the state plantations. Fields are typically defined by straight thorn hedges, reflecting the late enclosure of much of this landscape from woodland and waste. The historic land use pattern is also reflected in the occurrence of isolated brick farmsteads and clusters of wayside dwellings, interspersed with occasional small villages. Despite the fact that this is a functional landscape, the consistent geometric pattern can convey strong sense of visual unity.”

- 5.11 Restoration will deliver a flat crater with a raised access route there will be no long distance of use of the site, broom covert will have disappeared there will be no use of the site from the main access road, the impact in IA terms will be major significant permanent
- 5.12 The statutory consultees from the Lee Castle Farm EIA Scoping Opinion confirmed features of the land addressing guides that add to its status as valued landscape.
- 5.13 The statutory consultees for the Lea Castle Farm EIA Scoping Opinion confirmed features of the land addressed in guidance that add to its status as valued landscape.

Environment Agency

- The estate is located on a Principle Aquifer of the Wildmoor Sandstone Formation within Source Protection Zone 3 of the Cookley Public Water Supply. The hydrogeological setting at this location is sensitive.

Parish Council

- An ancient wall borders the estate, this is a local landmark
- This is a biodiverse area where many animals and fungi are likely to be affected
- The estate contains a number of (TPO'd) trees.
- The land is described as “acid sand” which provides a unique habitat for various flora and fauna.

Worcestershire Countryside Access Mapping Officer

- Public rights of way as recorded on the Definitive Map: Wolverley and Cookley footpaths WC-622 and WC-624 and Bridleways WC-625 and WC-626 cross the estate

CPRE

- The estate is the former park of Lea Castle, a gentlemen’s park largely only indicated by being surrounded by a brick wall having two lodges. These may deserve to be listed.

Worcestershire County Council Ecology

- the proximity to sites of local (i.e. county) importance, including the Staffordshire and Worcestershire Canal and River Stour Local Wildlife Sites and Grassland Inventory sites including Cookley Rough,
- the proximity of this site to the Wyre Forest Biodiversity Delivery Area

Worcestershire Count Council Landscape

- The estate is contained within the broad landscape character type Sandstone Estate lands.
- the setting of the estate is located within a transitional landscape that moves from a more typical Sandstone Estate lands character, east of the site, toward a post-medieval historic landscape character of mixed irregular fields, meadows and woodland, influenced in part, by the Stour Valley.
- In addition, the site is within an area of former post-medieval designed landscape, which adds another layer of inherited character and includes distinctive structural features and historic buildings
- the Stour and Staffordshire and Worcestershire Canal corridor is a strategic Green Infrastructure link

Worcestershire Wildlife Trust

- the estate falls within open agricultural countryside and that it contains some semi-natural habitats that may be of value, both in their own right and in terms of the species they may hold.
- the estate is bordered and contains woodland and is close to wetlands that have Local Wildlife Site Status (River Stour and Staffordshire and Worcestershire Canal).

Wyre Forest Countryside Manager

- the estate is in proximity to a couple of SSSI and other wildlife sites
- Dormice are known to be in proximity to this site
- Bats species are known to exist in area

5.14 At an appeal at Pave Lane Quarry, Pave Lane, Newport, the Inspector found,

“I consider that the proposed dome would appear as an engineered and unnatural feature in the context of the nearby hills. These comprise the hill to the south-east beyond Marlpits Wood (136 m AOD), the hill that contains Greens Wood (128 m AOD) to the north-west, along with Muster Hill to the north-east, of the proposed dome. I find that the proposed land raising would have a significant and permanent adverse effect on the character and appearance of the area because it would diminish the visual impact of Muster Hill in its local context. The wetland and tree planting as part of the proposed restoration would add interesting landscape features, but the harm in perpetuity that would result from the land raising would, in my judgement, far outweigh any such benefits.” (emphasis added)

“On the first main issue, I consider that the proposed development would have a substantial adverse effect on the character and appearance of the area during its operation, and that significant and permanent harm to the landscape would result from the proposed land raising. This harm weighs heavily against the proposal.”

5.15 At an appeal at Land At Ware Park, Wadesmill Road, Hertford, the Secretary of State found,

“The Secretary of State has gone on to consider impacts following restoration. He agrees with the Inspector for the reasons given in IR384 that the restored landform would give the landscape an artificial crumpled appearance, and that the proposed low-level restoration would not be appropriate in the landscape context which applies here. (emphasis added)

5.16 The Inspectors reasoning at IR384 was,

“The Restored Landform (Plan No.1217/R/1) indicates that in the northern part of the appeal site the restored ground level would in places be a considerable distance below the existing level. The way in which the excavated land would join up with the existing contours along the eastern side of Phase 4 would create a long shallow ridge line cutting across the natural fall of the land down to the road. Such a feature would sit uncomfortably with the existing slopes down this side of the valley. I consider that the restored landform would give the landscape an artificial crumpled appearance. This is apparent from the submitted cross-sections, and would appear as a jarring feature in the rounded hill sides on the edge of this valley. The proposed low-level restoration would not be appropriate in the landscape context which applies here.” (emphasis added)

Conclusion

5.17 Significantly the policies of the development plan in the MLP is that development must conserve and preserve the character and distinctiveness of sites.

5.18 The essential character of the site is of rolling parkland estate crowned by Broom Covert. The proposal changes that fundamentally to a flat featureless plateau. This does not conserve or preserve the character and distinctiveness of current site.

6.0 Heritage

- 6.1 Lea Castle was built with the profit of the local iron industry by Edward Knight in 1762. The Cookley iron works were founded in the late 1600s and the town quickly became the centre of the local iron and tinplate industry. The mill at Cookley was originally a corn mill built in 1706, it and another mill at Wolverley built in 1669, had been taken over by the new industry. These two mills were leased by the Knight family, and by 1750 they had purchased them outright.
- 6.2 Edward Knight owned the mills for 30 years until his death in 1780. It was Edward, with the wealth generated from the iron works who had Lee Castle built in the then fashionable neo-Gothic style in 1762. Situated on an outcrop, the house was a large brick build castellated mansion which was described in 1848 as, “a noble mansion surrounded by 550 acres of land enriched with plantations of oak and other timber.”
- 6.3 The house was auctioned in 1933, but by 1939 it was dilapidated. Lea Castle was demolished in 1945. Today the South lodge and gatehouse on Wolverley Rd, North lodge and gatehouse on Castle Rd, the estate wall, tree lined driveway and remnants of the castle survive. These features elevate the site above the ordinary.
- 6.4 North lodges and gateway off Lee Castle, Castle Rd are specifically listed as Grade II (list entry number 1296589) first listed on the 18th of March 1987. The listed lodge itself is of special architectural and historic interest considered to be of national importance and therefore worth protecting. Both gate houses are included in the local list for their architectural and historic value.
- 6.5 Objects, structures, and buildings affixed to a listing building or within its curtilage may also be protected by listing. In general any pre 1948 structure that formed part of the land and was in the curtilage of the principle listed building at the date of listing and is ancillary to the principle building is considered to be part of the listing.
- 6.6 The courts have considered the precise extent of curtilage on many occasions; the key considerations are the physical layout of the building, the ownership past and present, and the function of the building and space, past and present.
- 6.7 The courts have said there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building
 - the physical layout of the listed building and the structure
 - the ownership both historically and at the date of listing and
 - the use and function of the relevant building they gained both historically and at the date of the listing
- 6.8 These tests were first proposed in the Attorney General ex rel Sutcliffe and others v Calderdale BC 1982 (as accepted by Debenhams PLC V Westminster CC 1987).
- 6.9 Historic England advice is that in general any structure attached to a building, such as adjoining buildings or walls, will also be covered by the listing if the structure was ancillary to the principle building at the date of the listing. Even extensions or alterations to listed buildings made after listing from part of the listing building and are subject to the protection regime.
- 6.10 Policy MLP 32 Historic Environment states,

“Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and where possible enhance the historic environment.”
(emphasis added)

6.11 The policy goes on to say;

“A level of technical assessment appropriate to the proposed development and its potential impact on the historic environment and proportionate to the significance of any affected heritage asset(s) and their setting will be required to demonstrate that, throughout its lifetime, and taking into account the cumulative effects of multiple impacts from the site and/or a number of sites in the locality, the proposed development will:

a) optimise opportunities to enhance the historic environment, including enhancing the condition, legibility and understanding of heritage assets and their setting, integrating other green infrastructure components where appropriate;

b) avoid causing substantial harm to, or total loss of significance of, any designated heritage assets. Where there will be such harm or loss, the development will not be permitted unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or if a specific set of circumstances are all satisfied. Substantial harm to or loss of grade II listed buildings, or grade II registered parks or gardens, should be exceptional. Substantial harm to or loss of assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional;

c) avoid causing less than substantial harm to the significance of any designated heritage assets. Where there will be such harm, it will be weighed against the public benefits of the development including, where appropriate, securing the optimum viable use of the heritage asset(s);

d) avoid causing unacceptable harm to, or unacceptable loss of significance of any non-designated heritage assets. The benefits of the proposal will be balanced against the scale of any harm or loss and the significance of the non-designated heritage assets; and

e) record and advance understanding of the significance of any heritage asset(s) to be lost (wholly or in part), including assets of archaeological interest, in a manner proportionate to their importance and the impact of the loss, and make this evidence and any archive generated publicly accessible.”

6.12 Paragraph 2.142 explains,

“The historic environment is particularly sensitive to impact and change from development, land management, climate change and mineral workings. The effects of climate change are becoming more apparent through soil erosion and flood damage to historic buildings”.

6.13 The Wyre Forest Local Plan includes policy SP.21 Historic Environment,

“Development proposals should protect, conserve and enhance all heritage assets and their settings, including assets of potential archaeological interest, subject to the provisions of Policy DM.23 (Safeguarding the Historic Environment). In particular this applies to:

a. Designated heritage assets; i.e. listed buildings, conservation areas, scheduled monuments, registered parks and gardens and registered battlefields; also non-designated

heritage assets (including those identified on the District's Local Heritage List or for which a Historic Environment Record exists), and their settings.

b. The historic landscape, including locally distinctive settlement patterns, field systems, woodlands and commons and historic farmsteads, smallholdings and their settings.

c. , cemeteries, churchyards, public parks, urban open spaces and industrial, military or institutional landscapes, and their settings.

d. Archaeological remains of all periods.

e. Historic transportation networks and infrastructure including roads and track-ways, canals, river navigations, railways and their associated industries, and their settings.

6.14 The statutory consultees for the Lea Castle Farm EIA Scoping Opinion confirmed features of the land addressed in guidance that add to its status as valued landscape.

Worcestershire Archive & Archaeology Service

- There is archaeological interest within the area, being the former World War II grass landing strip,
- the presence of unrecorded, as yet unknown, below-ground heritage assets (archaeological remains) cannot be discounted and stray finds of archaeological material including a silver denarius of Vitellius (AD 69-69) have been made in the area
- the setting of designated heritage assets in the vicinity of the area include, but not limited to, the Grade II listed Sion Hill Court (NHLE 1100640) to the south and the Grade II Listed North Lodges (NHLE 1296589) to the north-east.

Parish Council

- An ancient wall borders the estate, this is a local landmark
- This is a biodiverse area where many animals and fungi are likely to be affected
- The estate contains a number of (TPO'd) trees.
- The land is described as "acid sand" which provides a unique habitat for various flora and fauna.

Wolverley and Cookley Historical Society

- This is a historical site
- The neo-gothic castle was built by the Knights, an important family in the Parish during the 18th and 19th century.
- The house was surrounded by parkland.
- It is suggested that the laying out of the grounds could have been in the picturesque taste (Survey of Parks and Gardens: Lockett 1997).
- The area is defined as "former parkland".
- there remains a 19th C. wall that defines the boundary of the estate
- The wall has served as a focus for community races etc. in the recent past
- lodges serving as entrances at the end of long straight driveways; at the North East, Grade II listed and at the South, on the Local List.
- These structures help to characterise the heritage of the two villages and should be viewed in context with the whole parkland.
- There are well used public footpaths along the driveways and between the areas enjoyed by local people and walking groups.
- The paths are shown as early as on the tithe map of 1837.

- Medieval documents refer to a settlement at The Lea. Although its exact position is vague it was undoubtedly in the area of Lea Castle.

CPRE

- The estate is the former park of Lea Castle, a gentlemen's park largely only indicated by being surrounded by a brick wall having two lodges. These may deserve to be listed.

Historic England

- The designated heritage assets include but are not limited to the Wolverley and Staffordshire and Worcestershire Canal Conservation Areas to the west and north-west as well as several grade II listed buildings.
- non-designated features of historic, architectural, archaeological or artistic interest can be of national importance and make an important contribution to the character and local distinctiveness of an area and its sense of place

Worcestershire Count Council Landscape

- The estate is contained within the broad landscape character type Sandstone Estate lands.
- the setting of the estate is located within a transitional landscape that moves from a more typical Sandstone Estate lands character, east of the site, toward a post-medieval historic landscape character of mixed irregular fields, meadows and woodland, influenced in part, by the Stour Valley.
- In addition, the site is within an area of former post-medieval designed landscape, which adds another layer of inherited character and includes distinctive structural features and historic buildings.

Wyre Forest Conservation

- Lea Castle estate had remained undisturbed by the expansion of Kidderminster into the early-20th century as recorded (as a park) on the 1st edition of the OS 6 inch map.
- Much of the area defined then as park is still green.
- An avenue connected the house with the south lodge.
- The house at Cookley is noticed on Isaac Taylor's 1772 map.
- The early 19th century house was demolished in 1945. This house was a neo-Gothic castle which suggests that a picturesque taste would have been applied to the laying-out of the grounds, but details cannot be made out from early or mid-19th century printed maps
- The mid-19th century castellated lodges and the brick boundary wall survive.
- Although the park is still legible 20th century encroachment and a variety of uses has reduced its aesthetic and historic values somewhat, although overall significance is low/medium.
- WSM 17233 Wolverley Camp General Hospital: Hospital built in 1942 accommodation for 500 patients used by US Servicemen until the end of the war.
- Former Military Grass Landing Strip WSM29266:
- Lea Castle Farm Wolverley WSM30493 comprises a partially extant C18 farmstead with buildings now converted to residential use.
- Originally the brick pierced barns were used for threshing.

- 1 and 2 South Lodges ref: LLWC55 and LLWC56 Lodge Houses originally serving Lea Castle (which was pulled down in 1945). Dating to c.1818, both Lodges served as the entrance from Wolverley. Square building, red brick construction, with castellated parapet to roof, buttresses to each corner, hood moulds to windows and doors.
- Extension to rear.
- These are included on the Local list for their architectural and historic values contributing to a medium significance.
- The adjacent Staffordshire and Worcestershire Canal Conservation Area within its woodland setting. This is a site highly sensitive to development due to its intact rural parkland character, topography and impact on mature woodland which form the setting for the Conservation Area.

Conclusion

- 6.15 To a large extent Cookley and Wolverley were historically defined by the iron industry this is encapsulated in the Lee Castle estate. The gatehouses and wall also define Cookley and Wolverley as key features of the villages and local landmarks. These remaining historic assets are key characteristics to the villages and area. Placing a sand and gravel quarry within the walls defining the historic Parkland is obscene; the proposal will have devastating effects on the designated heritage assets.
- 6.16 Furthermore the creation of a new opening in the historic wall will have a significant impact on this asset and change its essential character.

7.0 Restoration

- 7.1 To be clear, the removal of 1.7 million cubic metres of material and the potential landfill of 0.6 million cubic metres is not restoration. The levelling of the site of what is rolling parkland is not restoration. The destruction of ancient specimen trees and replanting of saplings is not restoration.
- 7.2 We have experience of the after care of this type of development on the former Court Farm Quarry on the opposite side of Wolverley Road. This is an alien landscape, out of keeping with the existing landscape form. It has the appearance of developed land which has detracted from the openness of the Green Belt.
- 7.3 Other witnesses will describe the appropriateness of the land fill operation.

8.0 Green Belt Matters

- 8.1 The starting point being inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 8.2 Certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include mineral extraction.
- 8.3 The purposes of including land within Green Belt are;
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 8.4 The development consists of,
- Creation of new access;
 - A plant site comprising the following:
 - The processing plant
 - Office and weighbridge and wheel wash
 - Stocks of product
 - 2 cylinders for a silt management/water cleansing system
 - Staff and visitor car parking
 - A soil storage / visual screening bund, which would measure approximately 3 metres high to the south and north and between 4 to 5 metres to the west.
 - An overburden bund would be located within the north of the processing plant site area measuring approximately 6 metres high.
 - Conveyor system.
 - Partial landfill.
- 8.5 In respect of which elements could be considered "not inappropriate" precedent has established that the actual mineral extraction and necessary plant to achieve extraction are to be included. All other development, including batching plants, land fill, bunds are not defined as "not inappropriate". Those elements considered "not inappropriate" must also preserve the openness of the Green belt and not conflict with the purposes of including land within it otherwise they too are inappropriate.
- 8.6 The Secretary of State Land at Ware Park, Wadesmill Road, Hertford APP/M1900/W/17/3178839 April 2019, found,
- "The Secretary of State has considered carefully the Inspector's findings at IR362-374 about the impact of the scheme on the Green Belt. He agrees with the Inspector at IR366 that plant, equipment, access and activity associated with the mineral extraction here would, to some*

extent, impair the openness of the area, but not enough to exceed the threshold or tipping point for the purposes of applying paragraph 146 of the Framework.”

- 8.7 In respect of Land At Ware Park, the Secretary of State considered that while not tipping the balance of development into being inappropriate; plant, equipment, access and activity associated with the mineral extraction works did have an impact on openness.
- 8.8 At an appeal at Land at Hatfield Aerodrome, off Hatfield Road the Inspector found,
“Determining the tipping point would depend upon the particular circumstances, as a matter of fact and degree, but relevant considerations could include the siting, nature and scale of the operational development in its local context, along with its visual effects, duration and the reversibility of any adverse impact upon the openness and purposes of the Green Belt.”
- 8.9 My evidence is that the mineral extraction is harmful to the openness of the Green Belt due to its impact on the resulting land form, and is therefore inappropriate. The soil storage, bunds, and access are by definition inappropriate.
- 8.10 Substantial weight must be given to any harm to the Green Belt. Any need for sand and gravel at this time does not clearly outweigh this harm and other harm to give rise to the very special circumstances for planning permission to be granted.

Conflict with purposes

- a) to check the unrestricted sprawl of large built-up areas;
- 8.11 The urban area of Kidderminster extends to the Wolverley Road along Sion Hill. The appeal site lies on the other side of Wolverley Road. This parcel of Green Belt land meets the purpose of preventing the continued sprawl of the Kidderminster built up area. The appeal proposal conflicts with this purpose.
- b) to prevent neighbouring towns merging into one another;
- 8.12 As above, the appeal site prevents the merging of Kidderminster/Broadwaters with the village of Cookley. This parcel of Green Belt land meets the purpose preventing towns merging. The appeal proposal would conflict with this purpose.
- c) to assist in safeguarding the countryside from encroachment;
- 8.13 The countryside would clearly be encroached upon.
- d) to preserve the setting and special character of historic towns;
- 8.14 The setting and special character of Wolverley and Cookley is set by Lea Castle parkland estate and the parkland walls running round the estate and the listed gate houses. This is reinforced by the conservation area. The development will not preserve the setting and special character, it will destroy it.
- 8.15 The appeal proposal conflicts with the purpose of the Green Belt and is for that reason inappropriate development.

Loss of Openness

- 8.16 The Courts (*R (Samuel Smith Old Brewery (Tadcaster) and Oxtan Farm) v North Yorkshire County Council and Darrington Quarries Ltd* [2018] EWCA Civ 489.) have held that limiting consideration of the effects of the proposed development on the openness of the Green Belt to spatial impact and nothing more, is the wrong approach and the likely effects of the development on the landscape, visual impact on openness was “quite obviously” relevant to its effect on the openness of the Green Belt. The policy implicitly requires the decision-

maker to consider how visual effects bear on the question of whether the development would “preserve the openness of the Green Belt”.

- 8.17 At an appeal at Land at Hatfield Aerodrome, off Hatfield Road the Inspector found,
“Determining the tipping point would depend upon the particular circumstances, as a matter of fact and degree, but relevant considerations could include the siting, nature and scale of the operational development in its local context, along with its visual effects, duration and the reversibility of any adverse impact upon the openness and purposes of the Green Belt.”
- 8.18 It is clear that the excavation itself will not preserve the openness of the Green Belt. Both as a result of change in topography but also in respect of the visual impact. With development extending across the appeal site its openness will be lost. A key aspect of the current openness is the rolling countryside with high ground visible across the area. This visibility and high rolling ground will be lost. The visual impact of the operational quarry and its associated plant and vehicles will significantly detract from the openness of the Green Belt. The restored site will be significantly less visually attractive, again effecting the openness of the site.
- 8.19 The development in operation and after will not preserve the openness of the Green Belt and will cause significant harm to openness. The development is not therefore appropriate development in the Green Belt.

Other Harm

- 8.20 The Courts have held that “other harm” is not limited to other harm solely to the Green Belt. My evidence and that of others describes other harm to be weighed against the proposal.
- 8.21 NPPF paragraph 145 provides that local planning authorities should plan positively to enhance the beneficial use of Green Belts, such as looking for opportunities to provide access to provide opportunities for outdoor sport and recreation. The appeal site presently achieves all of these aims; there is good public access and the site is used for equestrian activities, walking, and jogging

Minerals Local Plan

- 8.22 Paragraph 4.181 of the MLP acknowledges that the majority of the North West Worcestershire Strategic Corridor is within the Green Belt. The paragraph points out that mineral development is not inappropriate within the Green Belt, provided it takes place in a way which preserves its openness and does not conflict with the purposes of including land within the Green Belt.
- 8.23 Minerals development also has the potential to enhance the beneficial use of the Green Belt through providing enhanced public access and recreation opportunities, enhancing landscapes, visual amenity and biodiversity, and improving damaged and derelict land.
- 8.24 Policy MLP 27 is concerned with mineral development in the Green Belt. Mineral extraction within the Green Belt which will be supported where the proposed development, throughout its lifetime, will preserve the openness of the Green Belt; and not conflict with the purposes of including land within the Green Belt.
- 8.25 Where any aspect of the proposed development is inappropriate in the Green Belt; where it would not preserve the Green Belt’s openness and would conflict with the purposes of including land within the Green Belt, it will only be supported where 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. (Paragraph 6.21)

- 8.26 Where the proposed development requires the impact of Green Belt openness to be assessed, the judgement will be based on the circumstances of the case (paragraph 6.24). A range of matters may need to be taken into account by the Mineral Planning Authority when assessing the impact on openness, including spatial and visual aspects, the duration of the development and its remediability, and the degree of activity likely to be generated. As minerals development is a temporary use of land, this may be relevant to the impact on openness.
- 8.27 The MLP follows the Courts decision on spatial and visual aspects of openness, which is also raised in Planning Practice Guidance. The MLP also identifies other aspects of openness which the Courts have identified as relevant including the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation.
- 8.28 While the application refers to an extraction period of 10 years, this can only be determined by levels of demand, viability and feasibility, the additional remediation will be dependant on the availability of suitable fill material, something known to be problematic. The duration of the development, in some cases a lifetime, has a negative impact on openness. Remediation, refers to returning the land to its original state or to an equivalent state of openness. We know this will not occur and the original gently rolling hills will be replaced by a featureless crater. The significant negative impact on openness will be permanent. The relative degree of activity will also significantly reduce the openness of the site including the access works, vehicle movements, conveyors under and over the site.

Conclusion on GB matters

- 8.29 As referred to in the original objections of STQC, for the appeal site to be acceptable in Green Belt terms the applicant must demonstrate that no other site is available with less harm to the Green Belt and with less other harm.
- 8.30 NPPF requires development to preserve the openness of the Green Belt, this include visual impact. The development does not preserve openness there either spatially or visually.
- 8.31 The harm to openness and other harm means the proposal is inappropriate development in the Green Belt. As such this harm needs to be outweighed by other considerations.
- 8.32 Substantial weight must be given to any harm to the Green Belt. Any need for sand and gravel at this time does not clearly outweigh this harm and other harm to give rise to the very special circumstances for planning permission to be granted.

9.0 Alternatives

- 9.1 The ES is required to consider alternatives.
- 9.2 No alternatives in terms of other more suitable sites have been considered, this is the role of the emerging site allocations plan. No realistic alternatives in respect of the form of development has been considered, in particular so that true “restoration” is achieved to the openness of the site as it is now.
- 9.3 The consideration of alternatives is a key aspect of EIA and is essential in the case of Green belt development. For development to be acceptable in the Green belt no alternative non-Green belt sites must be demonstrated and no less harmful Green Belt sites need to be assessed.
- 9.4 The dismissal of alternatives is cursory and not persuasive.

10.0 Sterilisation

10.1 In the event the appeal is dismissed the resource will remain undisturbed. There may come a time when the balance of consideration, the need for the materials, changes and planning permission for extraction is granted. The resources will not be sterilised and I fail to understand this part of the appellant's case. The site is in a very valuable Green belt location, meeting the purposes of Green Belt such that development is extremely unlikely and the sterilisation of the resources would be a consideration in any case.

10.2 The MLP protects mineral resources.

Safeguarding locally and nationally important mineral resources

Policy MLP 41: Safeguarding Locally and Nationally Important Mineral Resources

The locally and nationally important mineral resources within the Mineral Safeguarding Areas defined on the Policies Map* will be safeguarded against sterilisation by non-mineral development.

10.3 The Wyre Forest District Local Plan (2016-2036) includes,

Policy SP.34 - Minerals

2. Proposed development in Minerals Consultation Areas will be required (23) to assess the potential for the proposed development to sterilise locally or nationally important mineral resources, or impact on the operation of permitted mineral sites or supporting infrastructure. Planning permission will not be granted for non-mineral development that would lead to the unnecessary sterilisation of mineral resources or unacceptable impacts on the operation of permitted mineral sites or supporting infrastructure within a Minerals Safeguarding Area (MSA) unless:

i. The applicant can demonstrate that the mineral concerned is no longer of any value or future potential value, or the supporting infrastructure is no longer necessary to facilitate minerals working; or

ii. The development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed; or

iii. Where sterilisation of a locally or nationally important mineral resource could occur, opportunities for extraction of the resource will be optimised prior to any non minerals development commencing; or

iv. Where permitted mineral sites or supporting infrastructure could be compromised, sufficient mitigation measures will be put in place to ensure their continued operation.

Conclusion

10.4 I fail to see how the appellant can be concerned that dismissal of the appeal will sterilise the resource.

11.0 Need and Landbank

- 11.1 Firstly, it is the role of the Site Allocations Plan to identify a suitable supply of land to meet needs. Planning appeals ahead of local plan preparation undermine the system of plan making.
- 11.2 The supply of minerals can not be at any cost. Need is part of the overall planning balance. Need for minerals has no special weighting, unlike housing need. There is no presumption in favour or tilted balance in the case of minerals development.
- 11.3 The lack of supply against target is not so acute that rash, premature decisions need to be made while a development plan is in preparation.
- 11.4 There are numerous examples of minerals proposals being refused where there is less than seven years of supply.
- 11.5 In respect of Land at Hatfield Aerodrome, off Hatfield Road Appeal Ref: APP/M1900/W/21/3278097, the Inspector found,

“There is evidence that available reserves of sand and gravel in Hertfordshire have been in decline since 2010. At the time of the Inquiry the current landbank was 5.9 years. This is a significant shortfall given that the NPPF requires planning for a steady and adequate supply of aggregate by maintaining a landbank of at least seven years for sand and gravel. The PPG provides that 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.”

“I consider that the harm to the Green Belt, along with the harm to the character, appearance and amenity of the area, and to pedestrian safety, is not clearly outweighed by the benefits of aggregate extraction and co-location of the CBP, along with the contribution the appeal scheme would make to employment provision, the economy, biodiversity and the PRoW network. In my judgement, the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, and the very special circumstances necessary to justify the development do not exist. I find that the appeal scheme would be contrary to national Green Belt policy set out in the NPPF.”

- 11.6 PPG Mineral states,
“What are landbanks of aggregate mineral reserves?

Landbanks of aggregate mineral reserves, or aggregate landbanks, are principally a monitoring tool to provide a mineral planning authority with early warning of possible disruption to the provision of an adequate and steady supply of land-won aggregates in their particular area.

Aggregate landbanks should be used principally as a trigger for a mineral planning authority to review the current provision of aggregates in its area and consider whether to conduct a review of the allocation of sites in the plan. In doing so, it may take into account the remaining planned provision in the minerals local plan.”

“Is a landbank above the minimum level justification to refuse planning permission?

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.”

“Would existing stocks of permitted reserves provide justification to refuse planning permission?”

Each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves. However, low stocks of permitted reserves to justify capital investment may be seen as a strong indicator of urgent need.” (Emphasis added)

Conclusion

- 11.7 A supply below the target does not mean consent should be given. Each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves.
- 11.8 The supply of minerals cannot be at any cost.
- 11.9 The lack of supply against target is not so acute that rash, premature decisions need to be made while a development plan is in preparation.

12.0 Cumulative Impact

- 12.1 The appeal submission and EIA has failed to take into account the cumulative impacts on the environment from the proposal and the cumulative impacts from other development nearby.
- 12.2 The appellant's conclusions on individual impacts are laughable in their naivety and bias. To suggest that in each case there is no more than minimal impact is to make the EIA process redundant. Clearly the decision maker has not been presented with evidence on environmental effects of such reliability for a decision to be made in favour of the proposal.
- 12.3 Individual impacts will be much greater than reported by the appellant, some will be sufficient in their own right to warrant dismissing the appeal. In totality the impact from all areas indicate the appeal should be dismissed.

13.0 Conclusion

- 13.1 The appeal proposals do not conform to the development plan when taken as a whole. Sites need to come forward through the Sites Allocations Plan and this has not advanced such that any weight can be attached.
- 13.2 Having determined the site is not suitable for mineral allocation the local planning authority can not now allocate the site.
- 13.3 In the MLP SA, SSSG17 is ranked 17th out of 29 Areas of Search for Sand and Gravel. The appeal site, in isolation, would rank far lower. The site, judged against the MLP sustainability criteria, is not sustainable.
- 13.4 The findings of the SA also bring into question the reliability of the appellants EIA given that most key issues score significant negative in the SA.
- 13.5 Significantly the landscape policies of the development plan in the MLP are that development must conserve and preserve the character and distinctiveness of sites.
- 13.6 The essential landscape character of the site is of rolling parkland estate crowned by Broom Covert. The proposal changes that fundamentally to a flat featureless plateau. This does not conserve or preserve the character and distinctiveness of current site.
- 13.7 To a large extent Cookley and Wolverley were historically defined by the iron industry this is encapsulated in the Lee Castle estate. The gatehouses and wall also define Cookley and Wolverley as key features of the villages and local landmarks. These remaining historic assets are key characteristics to the villages and area. Placing a sand and gravel quarry within the walls defining the historic Parkland is obscene; the proposal will have devastating effects on the designated heritage assets.
- 13.8 Furthermore the creation of a new opening in the historic wall will have a significant impact on this asset and change its essential character.
- 13.9 The North Lodge Gatehouse is a Grade II Listed Building. The wall and South Lodge should be treated the same. The proposal will result in substantial harm to these designated assets.
- 13.10 The removal of 1.7 million cubic metres of material and the potential landfill of 0.6 million cubic metres is not restoration. The levelling of the site of what is rolling parkland is not restoration. The destruction of ancient specimen trees and replanting of saplings is not restoration.
- 13.11 For the appeal site to be acceptable in Green Belt terms the applicant must demonstrate that no other site is available with less harm to the Green Belt and with less other harm.
- 13.12 NPPF requires development to preserve the openness of the Green Belt, this include visual impact. The development does not preserve openness, either spatially or visually.
- 13.13 The harm to openness and other harm means the proposal is inappropriate development in the Green Belt. As such this harm needs to be outweighed by other considerations.
- 13.14 Substantial weight must be given to any harm to the Green Belt. Any need for sand and gravel at this time does not clearly outweigh this harm and other harm to give rise to the very special circumstances for planning permission to be granted.
- 13.15 That harm and other harm is not outweighed by other matters.
- 13.16 The ES is required to consider alternatives, this is the role of the emerging site allocations plan.

- 13.17 No realistic alternatives in respect of the form of development have been considered, in particular so that true "restoration" is achieved to the openness of the site as it is now.
- 13.18 The dismissal of alternatives is cursory and not persuasive.
- 13.19 I fail to see how the appellant can be concerned that dismissal of the appeal will sterilise the resource.
- 13.20 A supply of minerals below the target does not mean consent should be given. Each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves.
- 13.21 The supply of minerals cannot be at any cost.
- 13.22 The lack of supply against target is not so acute that rash, premature decisions need to be made while a development plan is in preparation.
- 13.23 The appellant's conclusions on individual impacts are laughable in their naivety and bias. To suggest that in each case there is no more than minimal impact is to make the EIA process redundant. Clearly the decision maker has not been presented with evidence on environmental effects of such reliability for a decision to be made in favour of the proposal.
- 13.24 Impact on the historic landscape and the Green Belt will be significant. Any benefits from the proposal do not clearly outweigh this harm and other harm. No special circumstances exist and this inappropriate development should not therefore be approved.