

IN THE MATTER OF

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

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

**OPENING STATEMENT
ON BEHALF OF THE R6 PARTY**

Introduction

1. The Rule 6 Party, Stop the Quarry Campaign (“STQC”) represents the views of several thousand individuals in the local community. They are deeply concerned about the development of this Appeal Site at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire (“the Appeal Site”).
2. This is an appeal for the removal of some 3 million tonnes of sand and gravel over 26 ha, on land that is a virgin, Green Belt, unallocated Site. It sits within rolling hills in landscaped parkland, forming part of the grounds of Lea Castle, an 18th-century mansion. The Site is nestled between the historical towns of Wolverley and Cookley (both defined by their association with the iron workings), Broadwaters, and is proximate to the town of Kidderminster.
3. The Appeal Site is an area of land which local people cherish. It is peppered with footpaths and bridleways¹ and is enjoyed for recreation by people from both the immediately adjacent settlements and by those from further afield.² The importance of this area of land to the people who live here is perhaps best articulated in the 2030 letters of representations received during the application period³. You will hear from some of them today and the evidence put forward by STQC.

¹ 3 PRoW across the Site.

² As will be explained by Mr Mike Lord and Ms Rebecca Hatch on behalf of STQC.

³ §2.19 of the SoCG CD13.25.

4. Mr Normington, the previous Inspector who determined this appeal found the proposal to be unacceptable. That followed a two-week inquiry where these matters were considered in great detail – including the role that this Site played in the Green Belt. Though he erred in reducing the weight to be afforded to the Biodiversity Net Gain (“BNG”) (on the basis that this was a future legislative requirement), that affects only a very small part of the Decision Letter and does not infect the more fundamental judgements on why he found this scheme to be unacceptable.
5. Before outlining the substantive issues upon which STQC will address the Inspector, some procedural points require further consideration.

Procedural issues

6. The first relates to who the applicant (and now the Appellant) is. The application form states it is “*NRS Aggregates Ltd*” of White Gate Farm, Mythe Lane, Witherley, Atherstone, Warwickshire, CV9 3NU. As Mr Houle set out in his response to the revised consultation and through the revised application,⁴ NRS changed its name to “*NRS Saredon Aggregates Ltd*”. That was also the name of the Claimant in the High Court proceedings.⁵
7. It is trite that only the person who made the planning application can make an appeal.⁶ Mr Houle has cast doubt on whether the legal person who now makes the appeal is the same person who made the application. Despite raising it in his consultation, there has been no explanation for how or why an appeal is maintained in the name of a company which, from Mr Houle’s investigations, ceased to exist several years ago, and/or whether it is the same or different legal person which is now the Appellant. It is an important point that STQC say goes to the validity of the appeal
8. This is not only a procedural concern. Mr Houle sets out in his consultation response why this impacts the substance of the appeal, including the issue of enforcement of any condition imposed.
9. STQC also have grave concerns about the procedural aspects of allowing changes

⁴ See Liam Toland Appendices, page 95.

⁵ *NRS Saredon Aggregates Ltd v Secretary of State for Levelling Up, Housing and Communities*.

⁶ 3.3.1 of the Procedural Guide

to the scheme to slip through into this appeal through purported Wheatcroft/Holborn Studios “*amendments*”. They are attempts to fundamentally change the scheme and give rise to a host of procedural issues which particularly concern STQC. These will be explained and explored in the Roundtable Discussion relating to the revised scheme, and which have been summarised in the Position Statement, which was submitted to PINS.⁷

Substantive issues

10. As to the substantive issues, during the inquiry, the R6 Party will address these matters in line with those that the Inspector outlined in the CMC note.⁸
11. Though STQC does not present further evidence on the air quality, dust, noise or highways implications of the Proposed Development,⁹ STQC maintains that the Proposed Development will affect the lives of local people. There are several schools in the vicinity – Heathfield Knoll Primary School and Nursery being just 15m from the boundary of the Site. In addition, several residents have properties which sit within the appeal Site, including the Mcdonald’s bungalow, which sits right in the middle of the Proposed scheme of work. The popular equine business also sits within the Appeal Site and will also be drastically affected by the Proposed Development. The impact is not simply caused by exceeding ‘significant levels on individuals.
12. It is beyond the means of the STQC to call expert evidence on each of those issues. However, the environmental impacts on those residents, students, parents, teachers and local business owners, as well as the wider communities are important material considerations to which the Inspector must have regard.
13. As to the wider planning matters upon which evidence is called, fundamentally, STQC understand that there is a need to maintain a landbank. However, this piece of land is important to local people and is the wrong place for this type of development. That manifests itself in a number of ways.
14. **First**, the Appeal Site lies in an extensive area of search, covering a large area of

⁷ rD14

⁸ rID1 Summary Note Case Management Conference 7 August 2024.

⁹ Issue 3 in the Summary Note of Case Management Conference, and Issue 6.

land east of Kidderminster. But it also lies in the Green Belt (“GB”) – an area afforded the highest degree of protection in national planning policy. Wyre Forest District Council undertook a recent Green Belt Review to inform the production of its adopted local plan (2022). STQC considers that this will detrimentally impact the important characteristics of the Green Belt that were identified. In summary:

- a. Regarding **spatial** impacts, the STQC considers that it will not preserve the spatial openness of the Green Belt. It will no longer fulfil its purpose of protecting against the continued sprawl of Kidderminster. It is sited in the backdrop to two historical towns of Wolverley and Cookley and would, undoubtedly result in encroachment into the countryside. Inspector Normington largely accepted this position noting that there would soon to be built-form to the east - on the former Lea Castle Hospital and so the Site and its immediate environs would likely form the remaining area of Green Belt between the settlements. This led to his finding that the Site plays an “*extremely important Green Belt function in this location*” – that was a function to which he attached “*considerable weight*”.
 - b. On **visual** impacts, the excavation will not preserve the openness during operational or restoration phases. During operation, the bunds will be an alien feature of the landscape, and upon restoration, the site will become a ‘*featureless crater*’¹⁰, resulting in a clear change in the topography. The open character is depicted in the photographs featured as part of WCC’s evidence.⁸
 - c. There would be clear conflict with **purposes** (a)-(d) of green belt policy as set out in detail in the evidence of Mr Partridge to this appeal.⁹
15. It will be said that minerals can only be worked where they are found – and on that basis, the NPPF affords mineral working a degree of latitude when assessing harm to the GB. However, it is only where openness is preserved and there is no conflict with GB purposes where the Appeal Scheme could be found not to constitute ‘*inappropriate development*’. Having considered this issue in great detail, Inspector Normington found that the proposed operations would result in the partitioning of the site and that this would have a substantial spatial and visual adverse effect on

¹⁰ §9.29 of STQC Evidence, relating to Planning Matters, rPoE3.02.

the openness of the Green Belt.¹¹ In due course, the Inspector will be invited to agree with that well-considered conclusion.

16. **Second**, it is not lost on STQC that national policy requires Mineral Planning Authorities (“MPA”) to plan for a landbank of sand and gravel to be maintained (§213 (f)) of the NPPF of 7 years. In that regard, Worcestershire County Council (“WCC”) have an adopted minerals plan in the form of the Worcestershire Minerals Local Plan 2018-2036 (“MLP”), which sets the policy framework – including the environmental parameters - within which application for the winning and working of minerals must be determined.
17. What is yet to be determined is **where** those workings will take place. WCC are deep into the preparation of the Site Allocations Development Plan Document (“DPD”). That process specifically grapples with the question of where planning permission would be suitably granted for the winning and working to take place, particularly when assessed against the objectives set out in the MLP. Importantly, it will balance the need for the supply of minerals with the protection of the environment and with amenity considerations. That is an important function of the plan-making process - so that all the needs and constraints can be appropriately taken into account, with sites judged against each other.
18. Mr Tim Partridge, an experienced planner, sets out why, against the Objectives of the Sustainability Appraisal of the DPD, the Appeal Scheme hopelessly fails. The Appeal Site lies in Area of Search SSSG17, an extensive area of search covering a large area of land east of Kidderminster. Against the objective evidence base of the SA, SSSG17 is ranked 17th out of 29 areas of search, and the appeal scheme on its own would rank far lower.¹² That too points to why the Appeal Scheme is a development which is in the wrong place, particularly when assessed against other areas being considered for the winning and working of sand and gravel.
19. It is relevant that the MPA has rejected this site as being suitable for mineral extraction and set out numerous environmental reasons for doing so.
20. **Third**, the proximity of the Appeal Site and the impacts on local people are likely to be profound. They are worried about the quality of the Environmental Statement,

¹¹ See §78 of the DL.

¹² §5.23 of rPoE3.02.

particularly in terms of its objectivity. It does not adequately consider alternatives.¹³ It does not equip the decision-maker with robust information or with full and fair facts against which this Inspector can make a decision on this scheme.

21. These concerns are encapsulated in a series of important Chapters to the STQC evidence base *inter alia*:

- a. On public rights of way and bridleways, Ms Rebecca Hatch,¹⁴ will discuss first-hand the impacts of the changes to the footpaths, bridleways and other local amenities. She will discuss the profound effect this will have on the local equestrian centre. She will show how the changes to PRoW network put forward by the Appellant are utterly ill-conceived and poorly thought through.
- b. Mr Bill Houle, an experienced development surveyor, will give evidence on the impacts on inert fill capacity.¹⁵ In this regard, the Appellant's case has completely changed from its initial proposals to obtain inert fill from the site across the road, and from HS2. That serves only to underscore how the assumptions upon which the first scheme was based were very shaky and that Inspector Normington was right to doubt how such material would be obtained.¹⁶ There remain doubts about where this (new) material will be obtained or how it can be secured.
- c. Moreover, all of that is against the backdrop that only a fraction of the material being taken out of the ground is being replenished, which is problematic in itself. Mr Matt Harthill¹⁷ explains how the lack of inert fill will be harmful. Failure to secure even the material proposed will compound that harm. He will also detail the harmful impacts of the bunding operations throughout the scheme's operational lifetime and how the Concept Restoration Plan delivers very limited benefit indeed.
- d. Mr Mike Lord,¹⁸ a very successful and experienced local businessman, will

¹³ STQC rPoE 3.02, §10.2.

¹⁴ STQC rPoE3.06 Public rights of Way

¹⁵ STQC rPoE3.04 Inert Fill Demand and Capacity Re-determination 2024

¹⁶ See §199 of the DL - "199. Furthermore, it is not possible for me to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m³ of inert fill per annum being sustained to ensure the deliverability of the phased working and restoration within 11 years of the commencement of the development. Any shortfall in achieving the required annual level of inert fill to achieve the phased working and restoration could result in the need to extend the duration of operations beyond the current envisaged 11 years. It is therefore not unreasonable to conclude that there is a risk that the harm to the openness of the Green Belt could extend beyond the indicated time period."

¹⁷ STQC rPoE3.03 Concept Restoration

¹⁸ STQC rPoE 3.07 – Amenities and Economic Impact

probe the evidence relating to the purported economic impacts arising from this development and whether they can really be relied upon in the manner suggested. He will show that critical impacts on local employment have not been addressed or adequately considered. Despite raising that in his evidence at the first inquiry, the issue is notably absent from the revised Proofs too.

- e. Finally, Mr Tim Partridge will show how the heritage impacts from quarrying within the historic parkland, and through opening the historical wall will have a significant effect in heritage terms– including to the historical towns, the impacts of the gatehouses which are key defining features of both Cookley and Wolverley. He will also explain how this will have an impact on landscape terms (character and appearance) and how it will harm the Green Belt. He also undertakes an overall planning balance.¹⁹

22. There are a litany of other concerns that the R6 party will ventilate during the course of this Appeal – these relate to the sustainability of the location, the alternatives, the perceived sterilisation of the Site, the issues of need and landbank and the cumulative impact. It includes a failure to grapple with all of the relevant policies in the Development Plan and those are policies with which there is conflict.

Conclusion

23. The supply of minerals cannot be at any cost – and whilst need is an important consideration in the planning balance, the need for minerals has no special weighting.²⁰ Fundamentally, this is a scheme of development in the wrong place, and its impacts will be unacceptable for a multitude of reasons.
24. Accordingly, in due course, the Inspector will be invited to dismiss the appeal.

Sioned Davies
No5 Chambers

5 November 2024

¹⁹ STQC rPoE3.02 – Landscape, Planning and Green Belt.

²⁰ Like for example, the need for housing, which may engage the ‘tilted balance’.

