
Appeal Decision

Inquiry Held on 28 February to 4 March 2023 and 6–8 March 2023

Site visit made on 6 March 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 5th May 2023

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

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by NRS Aggregates Limited against the decision of Worcestershire County Council.
 - The application Ref 19/000053/CM, dated 10 January 2020, was refused by notice dated 27 May 2022.
 - The development proposed is a sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. On application, Stop the Quarry Campaign were granted Rule 6(6) status pursuant to the Town and Country Planning (Inquiries Procedure) (England) Rules 2000. The Rule 6 Party participated fully in the Inquiry.
3. A case management conference was held on 19 January 2023 to discuss administrative and procedural matters. The Inquiry opened on 28 March 2023 and sat for a total of 8 days. I undertook a site visit on an accompanied basis on 6 March 2023, following an extensive and comprehensive itinerary prepared by the parties. I closed the Inquiry in writing on 24 April 2023 following receipt of information that I requested on the final day of the sitting sessions, as set out in Annex C of this decision.
4. The application was accompanied by an Environmental Statement (ES)¹. This was subject to three requests from the Council for further information pursuant to Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations). The first submission to these requests from the Appellant was made in October 2020², the second in July 2021³ and the third in April 2022⁴. A further request

¹ CD1.03

² CD3.01 – CD3.22

³ CD5.01 – CD5.28

⁴ CD8.01 – CD8.09

pursuant to Regulation 25 of the EIA Regulations was made on 13 January 2023 by the Planning Inspectorate. The response⁵, dated 9 February 2023, was available for public consultation for 30 days. No representations were received in response to the submitted information. I have taken into account all of the Appellant's responses to the Regulation 25 requests, at both the application and appeal stages, in determining this appeal. Overall, I am satisfied that the ES, as supplemented by the responses to the Regulation 25 requests, meets the requirements of Schedule 4 of the EIA Regulations.

5. The decision notice issued by the Council on 27th May 2022⁶ identified nine reasons for the refusal of planning permission. The Council's Statement of Case⁷ identified that only reason 2 (Unacceptable impact on openness of the Green Belt) and reason 3 (Unacceptable impact on residential amenity and local schools) would be defended in the appeal.
6. Prior to the opening of the Inquiry, a Statement of Common Ground⁸ (SoCG) was submitted and signed by both the Appellant and the Council on 24 January 2023. A revision to the SoCG⁹ was submitted and signed by both the Appellant and the Council on 15 February 2023 and superseded the January version. The revised SoCG identified that the Council had considered the additional technical evidence submitted by the Appellant under the Regulation 25 request of 13 January 2023 and that, as a consequence, the Council would not be defending reason for refusal 3 (Unacceptable impact on residential amenity and local schools) in the appeal. Consequently, the Council only defended reason 2 (Unacceptable impact on openness of the Green Belt) in the appeal.
7. At the time the planning application was considered by the Council's Planning and Regulatory Committee on 24 May 2022 the Development Plan included the County of Hereford and Worcester Minerals Local Plan (adopted April 1997). This plan has now been superseded by the adoption of the Worcestershire Minerals Local Plan in July 2022 which is considered later in this Decision. However, the Council's Decision Notice¹⁰ only refers to one policy of the former Plan. This relates to Reason for Refusal 1 which identified conflict with Policy 2 of the former Plan. Notwithstanding the fact that the Council did not defend reason 1 in the appeal, the former Plan is now superseded and therefore, is no longer of relevance to the appeal proposal. No other policies were referred to in the Council's reasons for the refusal of planning permission.

Main Issues

8. Having considered the evidence before me and from what I heard at the Inquiry, the main issues in this appeal are:
 - The need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County.

⁵ CD14.01 – CD14.09

⁶ CD10.02

⁷ CD13.01

⁸ CD13.25

⁹ CD13.26

¹⁰ CD10.02

- The effect on the openness of the Green Belt, and the purposes of including land within it, and whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies.
- The effect of the proposed development on local amenity and the living conditions of the occupants of existing and future nearby dwellings and the amenity of pupils and staff at Heathfield Knoll School and First Steps Day Nursery with particular regard to noise, dust, air quality and health.
- Whether the effects of the proposed development on the character and appearance of the area, outlook from nearby properties, highway safety and the efficient operation of the highway network, Public Rights of Way, heritage assets and the local economy or other matters weigh in the planning balance.
- The planning balance with particular regard to whether the proposal is inappropriate development and whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

The appeal site and proposed development

9. The appeal is located within the Green Belt and comprises approximately 46 hectares of predominantly agricultural land. It is approximately 700 metres (m) and 890m east of the villages of Wolverley and Fairfield, respectively, and approximately 370m south of the village of Cookley.
10. The site is located immediately to the north of the Wolverley Road (B4189), immediately to the west of the Wolverhampton Road (A449), and approximately 40m east of a residential estate road of Brown Westhead Park. Land to the east of Wolverhampton Road forms part of the Lea Castle Village allocation in the Wyre Forest District Local Plan for approximately 1,400 dwellings, employment land, primary school and community facilities. Outline planning permission has been granted for 600 dwellings, Class B1 employment uses and other uses on the Lea Castle Village Site (Ref No. 17/0205/OUTL) with a Reserved Matters application for the 600 dwellings, public open space and infrastructure being granted in 2020 (Ref No 19/0724/RESE). Construction work has commenced on this part of the site and is relatively well advanced. The Council indicate that the Lea Castle Village allocation is located approximately 20 metres east of the appeal site boundary and approximately 250 metres from the easternmost extent of the proposed extraction area.
11. The proposed development would involve the extraction of approximately 3 million tonnes of sand and gravel from two distinct areas separated by a bridleway that runs roughly north-south through the centre of the site. The western extraction area being approximately 12.5 hectares and the eastern area approximately 13.5 hectares
12. Extraction would take place at a rate of approximately 300,000 tonnes of sand and gravel per annum. The depth of extraction would vary between about 5m

to 7m in the western area and about 7m to 12m in the eastern area. The site is proposed to be worked dry, above the water table, with no de-watering proposed. It is estimated that the site would be exhausted of mineral and restored within 11 years of the commencement of the development.

13. The site would be progressively restored using site derived and imported inert material to agricultural parkland, public access and nature enhancement. Mineral extraction operations would occur over 6 phases (Initial Works, Phases 1, 2, 3, 4 and 5), beginning by working and setting up the processing plant site in the centre of the site, then commencing extraction in the western area working north to south, crossing over to the eastern area working south to north.
14. To restore the site, it is proposed to import approximately 600,000 cubic metres of inert material (equating to about 1,020,000 tonnes), importing approximately 60,000 cubic metre of inert material per annum (equating to about 102,000 tonnes per annum). The importation of inert materials would be controlled by an Environmental Permit issued by the Environment Agency (EA). Vehicular access to the site would be via a proposed new access and internal haul road onto the Wolverley Road (B4189) in the south-eastern area of the site.
15. The proposed restoration scheme includes the creation of a new agricultural parkland, providing approximately 2.7 kilometres of new public bridleways and permissive bridleways and 5 pocket parks. Native woodland blocks would be re-established to reflect previous historic land uses (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439m of hedgerows would be strengthened, approximately 579m of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees thereby seeking to reinstate the historic avenue of trees along bridleways WC-625 and WC-626.
16. The local landscape does not have a statutory landscape designation. Three Grade II listed buildings exist within the vicinity, including Sion Hill House located approximately 250m to the south of the site, North Lodges approximately 250m to the north of the site, and Wolverley Court, located approximately 500m to the south-west. The Staffordshire and Worcestershire Canal Conservation Area is located to the west and north-west of the site, being located approximately 65 metres north-west of the site at its closest point. The Wolverley Conservation Area is located approximately 590 metres west of the site.

Planning Policy Context

17. The SoCG identifies that the Development Plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 is:
 - The Worcestershire Minerals Local Plan 2018 – 2036 (MLP) (adopted July 2022)¹¹;

¹¹ CD11.03

- The Waste Core Strategy for Worcestershire 2012 – 2027 (WCS) (adopted November 2012)¹²; and
 - The Wyre Forest District Local Plan 2016 – 2036 (WFDLP) (adopted April 2022)¹³.
18. The MLP does not make any specific allocations of sites that would be suitable for the extraction of minerals. The Plan identifies that a Mineral Site Allocations Development Plan Document (DPD) is to be prepared to allocate specific sites and preferred areas. The DPD is at an early stage of preparation and no parties referred to any of its content during the Inquiry. Consequently, I have attached no weight to this emerging DPD.
19. However, the MLP identifies that mineral supply will be delivered from working and processing at multiple sites over the life of the plan, focused in five strategic corridors. The appeal site is located in the North West Worcestershire Strategic Corridor.
20. I consider that the following comprise the most important policies in the development plan that are relevant to the determination of this appeal:
- Worcestershire Minerals Local Plan (MLP)*
21. Policy MLP 1 (Spatial Strategy) identifies, amongst other things, that development for sand and gravel will be supported within the strategic corridors and will not normally be supported elsewhere in the county.
22. Policy MLP 3 (Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors) sets out, amongst other things, that planning permission will be granted for new mineral developments on windfall sites within the strategic corridors where there is both a shortfall in supply as demonstrated by a shortfall in the landbank or stock of permitted reserves demonstrated in the most recent Local Aggregate Assessment (for aggregate development proposals); there is a demonstrated shortfall in supply of the relevant mineral for particular uses or specifications which would be addressed by the proposed development; or, there is a demonstrated shortfall for a particular geographic market area which would be addressed by the proposed development.
23. Policy MLP 11 (North West Worcestershire Strategic Corridor) states, amongst other matters, that 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. It further sets out a number of green infrastructure priorities that will be required to be delivered at each stage of a mineral site's life.
24. Policy MLP 14 (Scale of Sand and Gravel Provision) reflects the requirements of paragraph 213 of the National Planning Policy Framework (the Framework) by requiring a landbank of at least seven years to be maintained throughout the plan period, and sufficient productive capacity for sand and gravel will be maintained to at least meet the production guideline in the most recent Local Aggregate Assessment to supply a wide range of sand and gravel materials

¹² CD11.04

¹³ CD11.05

and products. The policy identifies that the County does not have a seven year landbank and that the most recent Local Aggregate Assessment must be referred to in calculating the landbank to support applications. It further identifies that new sites and alterations or extensions to extant sites will provide at least a further capacity to meet an identified shortfall of 11.407 million tonnes of sand and gravel and that proposals for sand and gravel development on windfall sites within the strategic corridors will only be supported where they meet the tests set out in policy MLP 3.

25. Policy MLP 15 (Delivering a Steady and Adequate Supply of Sand and Gravel) further supports the need to maintain the landbank at seven years and sets out that planning permission will be granted for minerals development that will contribute to maintaining a steady and adequate supply of sand and gravel. It further sets out that a level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards maintaining a landbank of permitted sand and gravel reserves in Worcestershire of at least 7 years and/or enabling Worcestershire's productive capacity for a wide range of sand and gravel materials and products to be maintained or enhanced.
26. Policy MLP 27 (Green Belt) identifies that mineral extraction and/or engineering operations within the Green Belt will be supported where it can be demonstrated that, throughout its lifetime, the mineral extraction and/or engineering operations will preserve the openness of the Green Belt and not conflict with the purposes of including land within the Green Belt. It further sets out that where any aspect of the proposed development is inappropriate in the Green Belt, including mineral extraction and/or engineering operations, that cannot satisfy the tests set out in the above preceding sentence, it will only be supported where a level of technical assessment demonstrates that very special circumstances exist that mean the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
27. Policy MLP 28 (Amenity) sets out that planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on amenity or health and well-being taking into account the cumulative effects of multiple impacts from the site and/or a number of sites in the locality. Furthermore, the proposed development must not cause unacceptable harm to sensitive receptors from dust, odour, noise and vibration, light and visual impacts.
28. Policy MLP 29 (Air Quality) states, amongst other things, that planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on air quality, and will help secure net improvements in overall air quality where possible. A level of technical assessment will be required to demonstrate that, throughout its lifetime, the proposed development will not cause unacceptable harm to sensitive receptors, sensitive habitats, or designated sites of importance for biodiversity from air quality. It further identifies that particular consideration will need to be given to air quality impacts in or impacting upon areas where air quality is known to be poor, such as designated Air Quality Management Areas (AQMAs).

29. Policy MLP 30 (Access and Recreation) sets out that planning permission will be granted where it is demonstrated that the proposed mineral development will protect and enhance rights of way and public access provision. Amongst other things, it further sets out that development should not have an unacceptable adverse effect on the integrity and quality of the existing rights of way network.
30. Policy MLP 31 (Biodiversity) sets out, amongst other things, that planning permission will be granted where it is demonstrated that the proposed mineral development will conserve, enhance and deliver net gains for biodiversity.
31. Policy MLP 32 (Historic Environment) identifies that planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and, where possible, enhance the historic environment. It further sets out that proposed development should optimise opportunities to enhance the historic environment, including enhancing the condition, legibility and understanding of heritage assets and their setting and integrating other green infrastructure components where appropriate. It further sets out that development should 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.
32. Policy MLP 33 (Landscape) sets out that planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and enhance the character and distinctiveness of the landscape. It further states that development should 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 result in significant change to the key characteristics of the landscape identified in the Worcestershire Landscape Character Assessment and Worcestershire Historic Landscape Characterisation.
33. Policy MLP 37 (Water Quality and Quantity) states that planning permission will be granted where it is demonstrated that the proposed mineral development will protect and, where possible, enhance the quality, quantity and flow of surface water and groundwater resources.
34. Policy MLP 39 (Transport) sets out that planning permission will be granted for mineral development that uses the most sustainable transport options and which will not have an unacceptable adverse effect on transport safety or congestion. Amongst other things, development proposals are required to connect to the strategic transport network without having an unacceptable adverse effect on safety or congestion of the local or strategic transport network and not have an unacceptable adverse effect on the environment or amenity along transport routes.

Waste Core Strategy for Worcestershire 2012 – 2027 (WCS)

35. Policy WCS 5 (Landfill and disposal) sets out that no capacity gap has been identified for the landfill or disposal of waste. Policy WCS 6 (Compatible land uses) and the supporting text to the policy identifies, amongst other things, that proposals for landfill facilities will be permitted where it is demonstrated that they form a necessary part of the restoration scheme for a mineral development.

36. Policy WCS 8 (Site infrastructure and access) sets out that proposals for new waste management facilities will be permitted where, amongst other things that the site is well connected to the strategic transport network and pedestrian access to the site is safe and adequate to support the proposed waste management facility. In addition, there should be no unacceptable adverse impact on safety or congestion on the transport network or amenity along transport routes.
37. Policy WCS 9 (Environmental assets) refers to, amongst other things, the protection and enhancement of heritage assets and their settings. It states that proposals for waste management facilities will be permitted where they will not lead to substantial harm to or loss of significance of designated or non-designated heritage assets or their settings. Where the proposed development would have unacceptable adverse impacts on environmental assets, development will only be permitted where it is demonstrated that the benefits of the development at the proposed site clearly outweigh any unacceptable adverse impacts and that proportionate consideration will be given in accordance with their degree of protection and significance.
38. Policy WCS 12 (Local characteristics) identifies, amongst other things, that waste management facilities will be permitted where it is demonstrated that the layout, landscaping and operation of the facility, and any restoration proposals contribute positively to the character and quality of the local area and protect and enhance local characteristics, through consideration of the character of the built environment and the local landscape character as identified in the Worcestershire Landscape Character Assessment.
39. Policy WCS 13 (Green Belt) states that waste management facilities will be permitted in areas designated as Green Belt where the proposal does not constitute inappropriate development, or where very special circumstances exist.
40. Policy WCS 14 (Amenity) sets out that waste management facilities will be permitted where it is demonstrated that the operation of the facility and any associated transport will not have unacceptable adverse impacts on amenity.

Wyre Forest District Local Plan 2016 – 2036 (WFDLP)

41. Policy SP.7 (Strategic Green Belt Review) is generally reflective of Part 13 of the Framework but also identifies changes to the Green Belt boundary to enable sustainable development to the north of Kidderminster to facilitate the Lea Castle Village development.
42. Policy SP.21 (Historic Environment) sets out, amongst other things, that development proposals should protect, conserve and enhance all heritage assets and their settings, including assets of potential archaeological interest.
43. Policy DM.22 (Safeguarding the Green Belt) identifies that within the Green Belt development will not be permitted, except in very special circumstances, or unless one of the specified circumstances applies which are listed in the policy. This includes other operations which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

Need for sand and gravel and inert fill provision

44. Paragraph 213 of the Framework provides that minerals planning authorities should plan for a steady and adequate supply of aggregates by, amongst other things, preparing an annual Local Aggregates Assessment (LAA), making provision in minerals plans and maintaining landbanks of at least seven years for sand and gravel, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. The Planning Practice Guidance (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.
45. The SoCG identifies that the main parties agree that Worcestershire currently does not hold a sufficient landbank of a minimum of seven years as required by paragraph 213 of the Framework. The LAA¹⁴ (published January 2023) covers the period up to 31 December 2021. The annual production guideline for sand and gravel identified by the LAA (January 2023) is calculated as 0.827 million tonnes. Based on this production guideline and the stock of permitted reserves of approximately 3.42 million tonnes of sand and gravel, Worcestershire had a landbank of approximately 4.14 years on 31 December 2021.
46. Since 31 December 2021, the Council has granted planning permission for sand and gravel production from three sites comprising the western portion of the former Sandy Lane Quarry, Wildmoor, Ryall North Quarry and Bow Farm Quarry. Taking the above planning permissions into account and assuming the production guideline for sand and gravel set out in the LAA (0.827 million tonnes) continues in 2022, then the landbank of permitted reserves on 31 December 2022 would be approximately 4.75 million tonnes of sand and gravel, equating to about 5.74 years.
47. The Appellant indicates that the appeal proposal would add 3.6 years to the landbank and would therefore enable Worcestershire to be compliant with paragraph 213 of the Framework. The SoCG also identifies that the proposed development would contribute to a “balanced geographical spread of mineral reserves” in Worcestershire.
48. In addition, there are three further planning applications which are awaiting determination by the Council¹⁵. These comprises Pinches Quarry Phase 4 (Ref: 19/000056/CM), Ripple East (Ref: 22/000015/CM) and Former Motocross Site, Wilden (Ref: 21/000036/CM). The Council indicates that should planning permission be granted for these sites they would increase the landbank by 1.03 years, 0.57 years and 0.3 years respectively. These could, collectively, increase the landbank by 1.9 years to 7.64 years which would enable a landbank of at least seven years to be met.
49. However, I am unable to make any pre-determinative assumption of whether planning permission may be granted for any of these sites in my consideration of the current landbank position. Furthermore, I accept the Appellant’s view that sales of sand and gravel will continue to deplete the landbank until the above sites are potentially permitted and become operational with an estimate of at least 2 years not being unrealistic. Consequently, the landbank

¹⁴ CD11.06

¹⁵ ID28

would be likely less than the required seven years at the point where any of the above sites are in a position to make a contribution to supply.

50. Taking the above factors into account, it is clear that a seven year landbank for sand and gravel cannot be demonstrated in the County. The appeal scheme would make a notable contribution to the supply of needed minerals which is a matter of substantial significance that should, in accordance with Paragraph 211 of the Framework, be given great weight. On this basis the appeal scheme would accord with policies MLP 3, MLP 14 and MLP 15 of the MLP.
51. Turning to the importation of inert fill, the Rule 6 Party expressed some doubt whether there would be sufficient material (60,000m³ per annum) available to achieve the restoration phasing in accordance with the submitted working and restoration scheme, particularly given the availability of alternative sites and the potential for future increase in recycling of inert material. The consequence of this was viewed as being an extension of the duration of operations or compromises to the submitted restoration landform. In addition, Policy WCS 5 of the WCS sets out that no capacity gap has been identified for the landfill or disposal of waste.
52. In order to assess the availability of inert waste to enable restoration at Lea Castle Farm, the Appellant has carried out a review of the Environment Agency's (EA) Waste Data Interrogator (WDI) 2021 for data for inert waste accepted and removed from sites with environmental permits for waste management activities within Worcestershire and the surrounding West Midlands Metropolitan Districts¹⁶. This also includes a review of major projects and the need for the deposition of inert waste.
53. The evidence suggest that Worcestershire has a declining inert capacity and the three sites that currently have an EA permit have very limited capacity. In terms of the wider West Midlands Metropolitan Districts, Meriden Quarry (Area G) is the only EA permitted landfill accepting inert waste. The total inert waste received at Meriden Quarry in 2021 was 783,452 tonnes. Meriden Quarry is operated by the Appellant, therefore if required, 60,000m³ per annum could be redirected from Meriden Quarry to Lea Castle Farm to enable restoration.
54. The Appellant's review also refers to the submitted Planning Statement¹⁷ which identifies that the site is ideally suited to help support growth in respect of the provision of minerals and the importation of inert waste associated with the nearby Lea Castle village. Notwithstanding this, the Appellant considers that the site is ideally geographically located to support growth/development in north Worcestershire and the west Midlands. It sets out that twenty different construction projects have been planned for the West Midlands region, costing a total of approximately £10bn and will require the deposition of significant volumes of inert waste.
55. The Appellant states that the proposed site would provide a key south-western location and that there is an anticipated increase in inert waste likely to be generated from large infrastructure projects in north Worcestershire and the West Midlands over the next 10 years. Furthermore, the Appellant states

¹⁶ ID43

¹⁷ CD1.02

that there is an inert waste capacity gap in Worcestershire, placing ever increasing need for sites, such as the appeal site, which would meet this increasing need and consequently the deliverability of the restoration scheme with the importation of 60,000m³ per annum is considered achievable.

56. The Council accepts that in 2021, predicated on the 2020 data, there was a declining void space as no new landfill sites accepting inert waste have been granted an Environmental Permit by the EA¹⁸. The Council considers that this situation is anticipated to continue until other sites that have planning permission for the importation of inert material (Chadwich Quarry and Sandy Lane Quarry) are granted an Environmental Permit. Furthermore, the West Midlands Resource Technical Advisory Body (WMRTAB) Study titled "Landfill in the West Midlands – 2019", dated 3 December 2021, acknowledges that landfill capacity across the West Midlands as a whole is declining and without further capacity being permitted it is likely that inert capacity will run out by 2031.
57. The Rule 6 party considers that it would be unrealistic that inert waste can be redirected from Appellant's Meriden site over the next 10 years due to the considerable transport distance, suggested to be 35 miles, and the fact that such vehicles would drive past the Sandy Lane Site located approximately 18 miles from the appeal site which requires 975,000m³ of inert materials over the next 6 years to achieve restoration. Overall, the Rule 6 Party consider that the target landfill to achieve the progressive infill program set out by the Appellant has no realistic chance of being achieved.
58. On the basis of the evidence provided in the Inquiry, 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 per annum being sustained to ensure that the deliverability of the phased working and restoration within 11 years of the commencement of the development would be achieved. I recognise that part of the Appellant's core business involves waste management activities. In addition, I accept that it is likely that some, currently unquantifiable, amount of inert waste could be generated by the Lea Castle Village development. However, whilst there would be no conflict with Policy WCS 6 of the WCS, 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.

Green Belt

59. The appeal site lies within the Green Belt as defined in the development plan for the area. It is clear from my site visit and from the evidence presented in the Inquiry that the local community recognise the contribution that the appeal site makes to the openness of the Green Belt. The site and its immediate environs are likely to soon be surrounded on all sides by built development of varying density. To the north is Cookley, to the southwest is Wolverley, to the south is Kidderminster. It is bounded by built development on Sion Hill and there is likely soon to be built form to the east on the former Lea Castle Hospital site. Consequently, the appeal site and its immediate environs will likely form the remaining area of Green Belt between these settlements.

¹⁸ ID50

60. This spatial position, and the contained nature of the appeal site, emphasises its importance in fulfilling Green Belt purposes. Consequently, I consider that this site plays an extremely important Green Belt function in this location to which I have attached considerable weight.
61. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts. It adds that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
62. The Framework advises that when located in the Green Belt inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC). The Framework provides that substantial weight should be given to any harm to the Green Belt, and that VSC 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.
63. It is an accepted planning principle that minerals can only be worked where they are found, and that mineral working is a temporary use of land. Paragraph 150 of the Framework provides that mineral extraction and engineering operations are not inappropriate development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. These purposes include: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; and to preserve the setting and special character of historic towns.
64. The proposed development, including the temporary buildings, facilities, plant, access and bunds, are, in my view, part and parcel of the proposed mineral extraction operations here for the purposes of applying Green Belt policy. If there is any doubt about the bunds, these would be engineered structures, and their construction would be an engineering operation in applying Paragraph 150 of the Framework. This paragraph must mean that some level of operational development for mineral extraction in the Green Belt would preserve its openness and would not conflict with its purposes, and that beyond that level there would be a 'tipping point' where the development would become inappropriate in the Green Belt, and so the exception would no longer apply.
65. Furthermore, I do not consider that the provision of the proposed portacabins to provide space for offices, welfare facilities and training can be reasonably characterised as 'the construction of new buildings in the Green Belt as mentioned in paragraph 149 of the Framework. In my view, it would be unreasonable to suggest that mineral extraction operations could be carried out without offices and welfare facilities. Such buildings are commonplace at many mineral sites throughout the country, and, in my view, there is nothing inherent in their provision here that would take them out of the scope of appropriate development in the Green Belt within the context of paragraph 150 of the Framework. In my experience, the buildings proposed on this site are not significantly larger than those that would be expected to be seen for a mineral extraction operation of this size.

66. In considering the effect of the proposed development on Green Belt openness, I have had regard to the case law evidence that was submitted and referred to in the Inquiry. The Judgment, *Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466¹⁹ identifies, amongst other things, that the concept of openness of the Green Belt “is not narrowly limited to the volumetric approach suggested by [counsel]. The word ‘openness’ is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs ... and factors relevant to the visual impact on the aspect of openness which the Green Belt presents”.
67. The case, *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3²⁰ (the Samuel Smith case) was extensively referred to by the main parties. Amongst other things, this case identifies that openness is a broad policy concept and is the counterpart of urban sprawl. It further identifies that openness is not necessarily a statement about the visual qualities of the land, though in some cases it may be an aspect of applying the planning judgement involved in applying this broad policy concept. Nor does it imply that freedom from any form of development as the judgement recognises that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. It further states that a large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Furthermore, it identified that as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land and that openness is a matter not of legal principle but of planning judgement.
68. In the case *Europa Oil and Gas Ltd. v Secretary of State for Communities and Local Government* [2013] EWHC 2643 (Admin)²¹, paragraphs 67 and 68 of that judgement referred to the consideration of the temporary nature of minerals workings and the reversibility of their impact. Ouseley J noted the special status of mineral extraction under Green Belt policy, stating that a factor that affects appropriateness, the preservation of openness and purposes of the Green Belt “is the duration of development and the reversibility of its effects.....Minerals can only be extracted where they are found”. He also made clear that it is nonetheless for the decision maker to determine the effect on Green Belt openness.
69. In considering the above cases, it is apparent that there is not a clear distinction between openness and visual impact. The cases recognise the temporary nature of minerals operations, but it is a matter for the decision maker to determine the effect on openness.
70. Although the Council did not identify that the proposed development would cause unacceptable visual impact to the landscape or local receptors in its reasons for the refusal of planning permission, in my view, it is a reasonable expectation that in assessing openness the likely visual impacts of

¹⁹ CD12.05

²⁰ CD12.06

²¹ CD12.07

development on the openness of the Green Belt should be considered. It is reasonable to assume that in assessing openness, a determination is necessary whether the proposal offers any visual or spatial effects on the openness of the Green Belt, and whether such effects are likely to be harmful or otherwise. Determining the 'tipping point' beyond mineral extraction that would preserve openness depends on the circumstances of the proposals as a matter of fact and degree.

71. In my view, determining the 'tipping point' would depend upon consideration of 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. This approach would accord with the judgments identified above whilst recognising that the Council's reasons for the refusal of planning permission did not identify that the proposals would have an unacceptable adverse landscape and visual impact.
72. In terms of openness, the appeal site comprises open former parkland now use as agricultural fields. It offers relatively open external and internal views from the parts of the Public Rights of Way (PRoW) that cross the site. Its spatial position between settlements, a set out above, is visually recognisable. The openness of the area was cited in representations to the Inquiry as an important element of this part of the Green Belt, and a factor that contributed significantly to the appreciation and enjoyment of the area.
73. There are perhaps understandably differences between the main parties regarding the effect on openness and the extent to which this has been considered in the planning application and the evidence presented in the Inquiry. In my view, the plant, equipment, buildings and access and activity associated with mineral extraction here would, to some extent, impair the openness of the area. However, I do not consider that this would be of an extent to exceed the threshold or 'tipping point' for the purposes of applying paragraph 150.
74. However, the proposed development relies on the creation of a number of soil and overburden storage bunds to reduce the impact of the development from surrounding key viewpoints and screen views of the operational phases of mineral extraction. The bunds would be of substantial lengths and would predominantly range in height from 3m to 6m. In the extraction areas these would be constructed and removed as required for each phase, but at times the engineered structures would truncate open views from PRoW within this part of the Green Belt. The bunds would have a greater adverse impact on the openness of the Green Belt.
75. Bunds 1-5 would remain in-situ from the initial creation of the processing plant area through to its decommissioning on restoration. Bund 3 (4-5m high) and bund 4 (3m high) would be positioned immediately to the east and south respectively of the PRoW. This would significantly reduce views in these directions for virtually the lifespan of the development. In my view, the bunding around the plant site area would have a greater impact on openness during the operations due to the bund height and duration of placement.
76. I recognise that the proposed duration of the development may not be considered to be lengthy in comparison to some mineral developments. Nonetheless, in the context of the visual and spatial components of the Green

Belt, the operations could reasonably be considered as occurring over the medium/long-term. In my view, the placement and retention of Bunds 1-5 in a prominent central position within the site for up to 11 years represents a significant period. During which, they would give rise to relatively long-term effects. The bunds would themselves appear as prominent regular and relatively high structures in close up views from the PRow network and the surrounding landscape for the duration of the operations.

77. In addition, there would be a further 15 bunds (20 in total) constructed and removed at various stages of the extraction operations and ranging in height from 3m to 6m, save for bund 6 at 0.3m. The height, duration of existence and location of these is set out in the submitted plans and ES²². Predominantly, the bunds around the extraction areas would remain in place for around 1.5 to 3 years, with bunds 17 – 19 being in place for approximately 6 years.
78. The adverse effects of the bunds on openness would be fully reversible in time. Nevertheless, the harm for up to 11 years could be considered as a medium/long-term effect. In my judgement, bunds of the length, height and duration proposed in such a contained open area would, in combination with the extraction operations, result in the partitioning of the site and would have a substantial spatial and visual adverse effect on the openness of the Green Belt.
79. Furthermore, although a phased development is proposed, the operations would be intensive and occupy considerable areas of the site at any one time for the purposes of extraction, infilling and bund placement/removal. I accept the Council's view that this is not a static site and that the bunds, in particular, are not static features. Although some will be grassed, they will nonetheless appear as engineered features that will not entirely assimilate into the landscape. The erection, maintenance and dismantling of the bunds has an impact on openness, in addition to their ongoing presence in the landform, for shorter or longer periods.
80. The extent of the proposed extraction and restoration phases, due to their expansive nature within the confines of the site, would, in combination with the bunds, contribute to a loss of openness. This is particularly relevant in this case due to the important role that this area of Green Belt performs given its spatial position between existing and proposed built development as set out above.
81. Although phased working and restoration is proposed, I have identified above that 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 per annum being sustained to achieve the phased working as proposed. Notwithstanding this matter, the restoration of each phase will likely take some time to achieve a restored visual appearance with the consequence that considerable areas of the site may appear as a 'disturbed' landscape until the proposed planting reaches some degree of maturity.
82. In forming the predominant Green Belt landholding between Kidderminster, Wolverley and Cookley, the appeal site provides a visual perception of openness between these settlements. As a consequence of the extent of the

²² CD1.04, paragraph 4.3.12

proposed extraction operations at any one time and the associated bund provision, I consider that the proposed development would exceed the paragraph 150 threshold for mineral extraction/engineering operations concerning the preservation of the openness of the Green Belt. In my view, the proposed scheme would not preserve the important spatial and visual components of the openness of the appeal site.

83. There were discussions in the Inquiry of various ways of reducing the impact of the development and height of bunds by soil spreading for example or seeking alternative locations for some bunds and the plant area and/or reducing the extent of the scheme. However, I accept the Appellant's view that these would not be practicable for the nature of the operations proposed. Moreover, an alternative method of working or a reduced scheme are not before me. Consequently, I have determined this appeal on the basis of the scheme as considered by the Council.
84. The Council suggest that the restored landform, in being slightly lower than existing in part, would not constitute a 'reversal' of the impact as the restoration scheme would substantially change the original landform and thus would offer a reduced visual contribution to wider ranging views. However, I do not consider this to be the case. In my view the proposed restored landform, albeit slightly lower in parts, would adequately perform its Green Belt purpose and would not have any material adverse effect on openness.
85. Turning next to the purposes of the Green Belt, the proposed development would not be of a type and scale that would conflict with the Green Belt's purpose to assist in safeguarding the countryside from encroachment. Although during the operational period, parts of the site would have a temporary developed appearance which would impact on openness, I do not consider that this would not hinder the objective of preventing unrestricted urban sprawl, particularly taking into account the judgement in the Samuel Smith case. Furthermore, I do not consider that the proposed development, due to its temporary nature and restoration works, could be reasonably construed as causing the neighbouring towns to merge into one another. On restoration, the site would continue to fulfil the Green Belt's purposes.
86. The Rule 6 Party argue that the location of the site between two former gate houses would affect the setting of the historic towns of Wolverley and Cookley. Notwithstanding the consideration of whether these settlements can be construed to be historic towns, in applying a reasonable interpretation of Paragraph 138(d) of the Framework, I do not consider that it can be reasonably argued that the proposed development would fail to preserve the setting and special character of historic towns, particularly given the nature of built development in Cookley and Wolverley and the separation distance between the appeal site and the gatehouses to such built development.
87. For the above reasons, the appeal scheme would not preserve the openness of the Green Belt. Consequently, the exception for mineral extraction would not apply. Therefore, the proposal would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. However, before any determination can be made of the extent to which the proposal would be contrary to national and local Green Belt planning policy, it is necessary to consider whether the inappropriateness of the proposed development, and any other harm, is clearly outweighed in the planning balance by other

considerations so as to amount to the very special circumstances necessary to justify the development.

Local Amenity and living conditions

88. Local residents and the Rule 6 Party expressed considerable concern regarding noise, dust, air quality, and the associated effects on the health of those living in the area, attending school, and using local footpaths as a consequence of the proposed development.
89. With regard to noise, the Council considers that the Appellant has adequately demonstrated that the noise from the proposed development could be controlled so as to secure compliance with the policy objectives and principles of the Framework, the Noise Policy Statement for England²³, and the guidance found in the PPG. Conditions providing noise limits were also suggested²⁴.
90. The ES included a Noise Assessment Report²⁵ which was assessed by the Appellant's noise witness and supplemented by the additional assessment provided as part of the Regulation 25 Submission at the request of the Planning Inspectorate²⁶. I have taken this evidence into account along with the evidence provided at the Inquiry by the Rule 6 Party and the Appellant.
91. The SoCG confirms, in paragraph 7.12, that Worcestershire Regulatory Services, the statutory consultee with regard to noise impacts, were satisfied that the noise report confirms that the operations could be undertaken within national guidance. Section 9 of the SoCG confirms that, in combination with other development, the proposal would not cause harm with regard to noise impacts to residential dwellings or Heathfield Knoll School and the First Steps Nursery, subject to the implementation of the proposed mitigation measures.
92. The minerals sections of the PPG advise that noise limits should be established through a planning condition, at the noise-sensitive property that does not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field). The PPG recognises that temporary operations such as topsoil and overburden stripping, bund formation and the final restoration processes are often noisier than extraction operations, but these are of relatively short duration. Consequently, it advises that increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds.
93. The Noise Assessment Report considered the existing average baseline noise measurements at the seven nearest noise sensitive properties and the Sound Power Levels, dB LWA, of each selected plant item that is likely to be used on the site. Site noise calculations were undertaken to each receptor for a reasonable worst-case scenario, i.e. with all mobile plant items operating at

²³ CD12.17

²⁴ ID51

²⁵ CD1.07

²⁶ CD14.07

the closest practical position of the proposed operating areas to each receiver location. The calculations assumed that all plant on site operates simultaneously in the closest likely working areas to each receiver location for both extraction and infilling. For most dwellings, the activity in the phases for extraction and infilling would not take place simultaneously at the closest part of the site (in practice, these two activities would be taking place in different phases of the development). Therefore, the actual quarry site noise levels would generally be lower than the calculated worst case values.

94. In any event, the calculated site noise levels are all at or below the 55dB(A) LAeq,1h (free field) site noise limits suggested in the PPG for normal, day to day operations. The calculated levels from temporary operations, e.g. overburden stripping, bund formation and the final restoration processes, were also calculated and found to be at or below the site noise limit of 70 dB LAeq,1h (free field) which also complies with the suggested limits for such activities set out in PPG.
95. The Appellant's noise witness also considered the noise impact on new residential properties since the time that the Noise Assessment Report was produced, and the noise associated with the construction of the Lea Castle Village. The evidence suggests that all of the calculated site noise levels comply with the suggested site noise limits for normal and temporary quarry operations for these additional receptors and also taking into account the cumulative impact of noise from construction activities at the Lea Castle Village. Consequently, operations at the proposed quarry would not cause any significant impact at the permitted and proposed residential developments.
96. In the absence of any other technical evidence to the contrary, I am satisfied that the evidence submitted by the Appellant regarding noise impact is comprehensive, robust and compelling. Consequently, I find that the appeal scheme, subject to appropriate planning conditions, would not likely result in any significant adverse noise impacts for those residing or visiting the site area.
97. Turning now to the impact of dust on amenity, the ES included a Dust Impact Assessment²⁷ which was reviewed and supplemented by the evidence of the Appellant's dust and air quality witness to include the potential cumulative impacts of the proposed development with other consented allocated development in the area. Amongst other things, this considered the wider Lea Castle Village development to the east. The assessment includes proposed in-design mitigation measures along with summary management and control measures that would be implemented specifically in relation to fugitive dust.
98. As part of the consultations on the planning application, Worcestershire Regulatory Services advised that they were satisfied with the methodology and conclusions of the submitted Dust Impact Assessment and recommended that the mitigation measures proposed therein are made the subject of suitable planning conditions. In this regard, suggested planning condition No. 31 would require the submission of a Dust Management Plan to include onsite and offsite dust monitoring and details of dust suppression measures.

²⁷ CD1.07

99. In addition, the importation of the inert fill material for restoration would be controlled under an Environmental Permit to be issued by the Environment Agency under the requirements of the Environmental Permitting (England and Wales) Regulations 2016. The Permit would require the management and operation of the permitted operations and directly associated activities using Best Available Techniques (BAT) to prevent, or where that is not practicable, reduce emissions. The Permit would likely include several conditions and would be expected to include standard boundary conditions in relation to dust and other aerial emissions.
100. The Dust Impact Assessment has considered the guidance provided in the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Mineral Dust Impacts for Planning'²⁸. The assessment followed the recommended qualitative approach in considering the potential for any such dust to impact existing nearby properties and land uses through assessment of the distance and orientation to receptors, prevailing weather conditions, topography and screening. It states that for a dust event to occur there must also be a failure of dust control measures. Particles greater than 30µm (micrometres) make up the greatest proportion of dust emitted from mineral processing and largely deposit within 100 m of sources. Particles between 10 and 30µm are likely to travel from 250 to 400 m, while sub 10µm particles, which make up a small proportion of dust emitted from most mineral processing operations, may travel up to 1 km from sources.
101. The IAQM guidance is clear that adverse dust impacts from sand and gravel sites are unlikely beyond 250m as measured from the nearest dust generating activities. Accordingly, the guidance advises that where receptors are not located within 250m of a sand and gravel site, it can normally be assumed that a detailed dis-amenity dust assessment would not be required.
102. The Assessment considers the likely dis-amenity dust impact at a number of sensitive receptors including Brown Westhead Park and Playing Fields, Heathfield Knoll School, statutory and non-statutory designated wildlife sites, and the residential properties of No.1 and No.5 Brown Westhead Park, South Lodges, Broom Cottage, Four Winds, No.10 Castle Barns, and the Bungalow. Dis-amenity dust is generally accepted to be greater in size than 10 microns and can cause dust soiling.
103. The Assessment predicts a negligible risk and negligible magnitude of effect at all receptors, except No.10 Castle Barns, which it predicts a low risk and slight adverse magnitude of effect, and the Bungalow in which it predicts a medium risk and moderate adverse magnitude of effect. Potential impacts and effects are suggested to be negligible at all other properties including the two schools to the southwest of the site. The Assessment suggests that if dust mitigation and control measures are effectively implemented, this would effectively mitigate any potential dust impact at No.10 Castle Barns and the Bungalow.
104. The Appellant's evidence submitted in the Inquiry²⁹ also considers the cumulative impact of dis-amenity dust as a consequence of the construction work occurring on the Lea Castle Village development. The nearest potential new receptors would be 240m to the east of the extraction area. The evidence suggests that even if these were to be occupied whilst operations

²⁸ CD12.24

²⁹ PoE Katrina Hawkins

were occurring in Phases 4 and 5 of the proposed development, the resulting effects are predicted to be negligible and that the proposals would not have any significant adverse effects on any proposed new receptors.

105. Two properties were identified that lie within the relevant dis-amenity dust risk screening distances of both the proposed development and the Lea Castle Village site, comprising Castle Barns and Four Winds. The potential for cumulative impacts at these receptors would only occur if extraction and restoration activities occurred in Phases 4 and 5 of the proposed development at the same time as construction activities in the western area of the wider Lea Castle Village development. Taking into account distances and orientation, the evidence concludes that the contribution of dust impacts that may arise if the western part of the wider Lea Castle Village development was to occur simultaneously with the appeal proposals, then this would not result in significant adverse effects at either of these properties.
106. In the absence of any compelling technical evidence to the contrary, I am satisfied that the appeal proposals would not result in unacceptable levels of dust on the amenity of nearby existing or proposed sensitive land uses, subject to the implementation of appropriate mitigation measures identified in the Dust Impact Assessment and reflected in the suggested relevant planning conditions.
107. Air quality and health is not an issue for the Council but is a major concern for local residents and was reflected in many written and oral submissions and in evidence presented by the Rule 6 Party³⁰. The Dust Impact Assessment also included a PM₁₀ (particles less than 10 micrometres in diameter) assessment. This assessment assumed an additional load of 1 µg/m³ PM₁₀ attributable (as an annual mean) to the proposed operations in the existing background level. It identified that with the combination of 1 µg/m³ to the background concentrations the resulting total PM₁₀ and PM_{2.5} (particles less than 2.5 micrometres in diameter) annual average concentrations would remain well below the relevant Air Quality Objectives (AQOs). However, the Air Quality Review provided by the Rule 6 Party³¹ contends that the ES has downplayed the health effects of dust and the local air quality conditions and that recent evidence demonstrates that fine dust particles (PM₁₀ and PM_{2.5}) associated with mineral activities are also associated with adverse respiratory and cardiovascular effects on health.
108. The Appellant's Air Quality evidence provided at the Inquiry includes Defra data, based on 1km x 1km grid squares across the UK, that identifies background levels of annual mean background concentrations of PM₁₀ and PM_{2.5} as an average for each grid square. The maximum average background PM₁₀ and PM_{2.5} concentrations for the grid squares in which the proposed site is located are predicted to be substantially below the relevant AQOs (40µg/m³ for PM₁₀ and 25µg/m³ for PM_{2.5}), at 30% and 31% of the objectives in 2023.
109. The IAQM Guidance on mineral dust³² advises that where the long-term background PM₁₀ concentration is less than 17 µg/m³ there is little risk that additional contributions from a mineral site would lead to an exceedance of

³⁰ PoE Adrian Carlloss

³¹ CD12.31

³² CD12.24, section 5.2

the annual mean air quality objective. The guidance advises that if this is the case then no further consideration is typically required. As noted above the Defra data predicts annual mean background concentrations of 11.18-12.01 µg/m³ in the locality, i.e. well below the recommended screening value of 17 µg/m³. On this basis, I accept that no further consideration of potential PM₁₀ impacts from the proposed development would be required.

110. The Appellant's evidence also considers the cumulative contributions to PM₁₀ concentrations from the proposals and the Lea Castle Village development. I accept the conclusions in this regard that in the worst-case scenario of extraction and restoration taking place in Phases 4 and 5 of the proposed development simultaneously with construction of the western part of the wider Lea Castle Village, PM₁₀ concentrations are predicted to remain well below the relevant AQOs.
111. The Dust Impact Assessment also considered the HGV movements to and from the proposed development which would result in NO_x / NO₂ and PM₁₀ emissions and hence potential adverse impacts on local air quality. This included atmospheric dispersion modelling of vehicle exhaust emissions and assessment of potential impacts at receptors near the affected local road network.
112. The Appellant's evidence on air quality³³ includes the current available mean concentrations of NO₂ data for 2023 for the grid squares in which the appeal site and surroundings are located. This shows that the maximum average background NO₂ concentrations for the grid squares in which the site is located are predicted to be substantially below the relevant objectives, at 20% of the objective in 2023. It also analyses the predicted traffic flows to and from the site. It concludes that the contribution of the proposed quarry related HGV exhaust emissions to the local air quality would not be significant. When the cumulative impacts of the Lea Castle Village are also considered, the predicted resulting concentrations of NO₂, PM₁₀ and PM_{2.5} are predicted to be below the relevant AQOs at all modelled receptor locations.
113. A proportion of PM₁₀ emitted from the proposed development could comprise respirable crystalline silica (RCS). Silica is a naturally occurring substance found in varying amounts in most rocks, sand and clay and the long-term inhalation of RCS may give rise to silicosis. There is understandably no evidence of what proportion of RCS may be emitted or how likely the extraction of the proposed minerals would generate RCS emissions as this cannot be determined with any degree of certainty. There is evidence that RCS risk is increased where minerals are crushed, whereas the appeal scheme proposes only screening. However, RCS is a recognised hazard for personnel working at quarries and was an emotive issue for local residents and the parents of pupils who attend local schools, particularly Heathfield Knoll School and First Steps Day Nursery.
114. There is no UK established or recommended ambient air quality standard for RCS nor is there any recommended methodology for the assessment for potential RCS emissions to ambient air or potential off-site impacts. The Health and Safety Executive advice³⁴ is that 'No cases of silicosis have been documented among members of the general public in Great Britain, indicating

³³ PoE Katrina Hawkins

³⁴ Appendix KEH10 PoE Katrina Hawkins

that environmental exposures to silica dust are not sufficiently high to cause this occupational disease’.

115. In my view the implementation of dust suppression measures in accordance with a Dust Management Plan would all serve to minimise the risk of any RCS emissions from the site. There is no compelling evidence that clearly demonstrates that the proposed development would pose a potential significant risk to the local population due to RCS.
116. The ES also included a Health Impact Assessment.³⁵ The scope of the assessment was agreed with the Council’s Public Health Team and Public Health England. It follows guidelines set out within the Health Impact Assessments in Planning Toolkit (Public Health, Worcestershire County Council) March 2016. The Health Impact Assessment concluded that with standard good practice, mitigation and standard working practices that significant adverse effects to population health would not occur.
117. The major concerns regarding RCS have been considered in detail by the Appellant. I am also mindful that no technical consultee has raised any concerns regarding the methodology used or the conclusions reached in the Dust Impact Assessment or The Health Impact Assessment. I therefore conclude that the proposal would be unlikely to have a significant adverse effect on public health with reference to air quality.
118. I now turn to consider whether, in the absence of objective justification for the public health concerns raised with respect to air quality, land use consequences would flow from the perception of harm. It is clear from the submissions made that a significant number of existing residents in the area are concerned at the potential air quality impacts. Understandably, relatively few who cite this concern have engaged on an evidential basis. However, taking into account my findings above, I consider that only limited weight is attributable to the perception of harm to public health.
119. Overall, I am satisfied that, subject to appropriate planning conditions setting out mitigation and compliance measures, the proposed development would not, by reason of noise, dust or poor air quality, have a significant adverse effect on the amenity of the area or the living conditions and health of those living nearby or using recreational features. Consequently, I find no conflict with Policies MLP 28 and MLP 29 of the MLP or Policy WCS 14 of the WCS.

Character and appearance

120. The appeal site is not identified as being a ‘valued landscape’ for the purposes of paragraph 174 of the Framework and the surrounding local landscape does not have a statutory landscape designation. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA) which concluded that the landscape and visual effects resulting from the proposed development would be temporary, progressive and localised and not significant. It further identifies that progressive restoration to the post restoration scheme provides opportunities for both enhanced landscape, visual and amenity and wellbeing which will result in beneficial effects. It also concluded that there would be no adverse cumulative landscape or visual significant effects.

³⁵ CD1.15

121. I have considered the concerns raised by local residents, Wyre Forest District Council and CPRE regarding the effect of the proposed development on the character and appearance of the local area. The Council's original reasons for the refusal of planning permission did not identify that the proposals would have an unacceptable adverse landscape and visual impact. The SoCG confirms that the County Landscape Officer and the Hereford & Worcestershire Gardens Trust did not raise any objections to the proposed development. Whilst the Council contested in the Inquiry the impact of the proposals on Green Belt openness, it did not contend that the proposed development would be unacceptable in landscape and visual terms.
122. Taking into account my observations at the site visit and considering the evidence submitted in the Inquiry, I consider the LVIA to be comprehensive and robust. The proposal would result in a change in topography and landform (lowering ground levels) with progressive restoration utilising both in-situ material and imported inert materials. I concur that the site and its surroundings have a medium sensitivity to landscape change and that the magnitude of the effect of the proposed development on landscape character would likely be low to medium adverse. Overall, I consider that this would result in a moderate adverse effect that is not significant, particularly as the progressively restored landform, albeit slightly lower in parts, would reflect the general landform and gradients of surrounding land and that restoration would provide slight to notable benefits to landscape character.
123. In terms of visual impacts, the LVIA analyses the visual effect of the proposed development on 31 identified receptors which have the potential to view the current site and the proposed development. This was carried out digitally through the production of Zones of Theoretical Visual Influence (ZTVI) and includes users of PRoW as well as the residents of properties who have the potential to view the site. The LVIA concludes that no visual receptors will receive a significant adverse effect during either the proposed development period or from the restored site and its subsequent agricultural and parkland activities.
124. I have carefully considered the effect of the proposed development, in particular the construction of the soil and overburden mounds, on the outlook of nearby residential properties. The Appellant's evidence submitted at the Inquiry assesses the impact of views of the proposed development from 8 properties comprising, the Equestrian Centre, Keepers Cottage, North Lodges, Castle Barns/White House, Four Winds, Broom Cottage, South Lodges and Brown Westhead Park (dwellings at northern end of road)³⁶. It describes how effects upon visual amenity would typically range from slight to moderate adverse and would not be significant.
125. I concur with the Appellant that it is appropriate to consider the separation distance between residential properties and the proposed bunds in the assessment of visual impact and effect on outlook. I also concur that screen bunds of equivalent height and separation distance to permanent buildings e.g., a row of terraced houses, would have a reduced effect upon visual amenity of nearby dwellings because they are temporary structures, and they do not have windows that impact privacy.

³⁶ PoE Neil Furber

126. In my view, taking into account the topography and intervening development, the Equestrian Centre Bungalow is the closest property whose outlook has the potential to be impacted the most by the presence of the proposed bunds. The separation distance between the western elevation of the Equestrian Centre bungalow and the crest of the nearest 5 to 6m high temporary screen bund would be approximately 62.5m, albeit the bund would be in place for only 9 months. There would be a clearly noticeable but temporary change in outlook resulting from the foreshortening and restriction of views to the wider landscape.
127. However, I accept the Appellant's argument that the separation distance between the bungalow and the screen bund would be well in excess of typical separation distances between existing and new residential development. In addition, the screen bunds on the appeal site would not exceed 6m in height, whereas two storey housing is typically 8m high to the ridge. Taking into account the separation distance, the temporary duration of the bunds existence and its height, I am of the view that there would be a moderate adverse overall effect on the outlook from the Equestrian Centre Bungalow but it would not be significant and not of an extent to justify the dismissal of this appeal.
128. I have also considered the visual effect of the construction of the proposed access and in particular the removal of a stretch of the former Lea Castle Park boundary wall adjacent to Wolverley Road. This would expose some views of the southerly bund around the plant site area. However, I am mindful that suggested condition No.13 would provide the basis for some degree of visual mitigation and the wall would be rebuilt in its former position and appearance as a part of the restoration scheme. Consequently, I do not consider that the temporary loss of a relatively short stretch of the wall would cause unacceptable visual harm to this section of Wolverley Road of an extent that would materially contribute to a dismissal of this appeal.
129. The proposed restoration scheme would deliver a number of landscaping improvements which I have set out earlier in this decision. Although the landform would broadly reflect the current slope profiles, the restored height of some parts would be lower than existing ground levels. However, I accept that, overall, the restoration scheme would deliver landscape benefits.
130. However, restoration of mineral workings to high environmental standards is a requirement set out in paragraph 211(e) of the Framework and reflected to some extent in local development plan policy. There is therefore an inherent policy requirement that mineral workings should have a high standard of restoration. The existing landscape is one of a former parkland and would be restored back to a parkland on completion of the restoration work, albeit with enhanced planting. Taking into account the policy requirements, I consider that the landscape benefits of the scheme should be afforded moderate weight in the planning balance.
131. Overall, in the absence of any other technical evidence to the contrary, I do not consider that the proposed development would have a significant adverse effect on the character and appearance of the site and the surrounding landscape of an extent to sustain the dismissal of this appeal on those grounds. Nor would any visual receptor receive significant adverse visual effects during the proposed development of an extent that would be

materially detrimental to living conditions. Consequently, there would be no conflict with Policies MLP 28 or MLP 33 of the MLP or WCS 12 and WCS 14 of the WCS.

Public Rights of Way

132. From my site visit and the evidence presented in the Inquiry, it is clear that the current PRoW network that crosses the appeal site provide an important recreational facility for the local community as well as providing a direct route between Cookley and Wolverley.
133. There would be a temporary diversion of footpath WC-624 to facilitate the working and restoration of phases 1 and 2 of the proposed scheme. On completion of the working and restoration of Phase 2, this public right of way would be relocated to its original position and eventually upgraded to a bridleway as part of the restoration scheme. There would also be a closure of a short section of bridleway WC-626 for a period of approximately 1 to 2 weeks to facilitate the installation and removal of the conveyor tunnel. However, during these periods the bridleway would be diverted to the west.
134. During the Initial Works Phase, a new bridleway measuring approximately 2.3 kilometres in length would be provided around the southern and eastern boundary of the site. In addition, approximately 0.4 kilometres of permissive route is proposed to be provided as part of the final restoration works. The Council's Footpath Officer, the Wyre Forest District Council Countryside and Parks Manager, the Ramblers Association and the Malverns Hills District Footpath Society raised no objections to the proposals.
135. I have carefully considered the concerns of local horse riders that were expressed in the Inquiry. Notwithstanding the concerns regarding the extent to which the British Horse Society (BHS) were supplied with additional information, the fact remains that their position did not raise any material objections to the proposed development. On this basis, there are no substantive and compelling grounds for me to conclude that the proposal would be demonstrably detrimental to the interests of horse riders of an extent that would contribute to a sustainable reason to dismiss the appeal.
136. The proposed development will not lead to a loss of accessibility as the public rights of way remain useable, albeit for relative short periods of time on some diverted routes. Even so, the scheme would render some of the local PRoW network less attractive whilst the site is being worked as a consequence of the proximity of some of the screening bunds which would cause the loss of some views along walking routes. However, the phased working means that only short sections of the PRoW network would be impacted at any given time. Consequently, I consider that for the duration of the operation the proposed development would have an adverse effect on the PRoW network but this would be of minor significance and would not constitute a reason to dismiss this appeal on those grounds.
137. The proposed additions to the PRoW network during the initial works and on restoration would be mostly permanent and beneficial in terms of providing some more routes for users and so of some advantage. Overall, I find that the proposed development would, in terms of PRoW, offer a benefit of minor significance, which should be given slight weight in the planning balance. In

this regard, I do not consider that there would be any conflict with the provisions of Policy MLP 30 of the MLP or Policy WCS 8 of the WCS.

Highway safety and the effect on the local highway network

138. The ES that accompanied the planning application included a Transport Statement³⁷ (TS) which was supplemented by further information, including a Stage 1 Road Safety Audit, during the Council's consideration of the proposal. The County Highways Officer raised no objections to the proposal, subject to the imposition of appropriate planning conditions relating to, amongst other things, the implementation of the submitted access design details, provision and maintenance of visibility splays and the submission of an HGV Management Plan.
139. Access would be provided via a new priority junction located on the north side of Wolverley Road and positioned approximately 220m east of the Sion Hill junction and 50m west of Broom Cottage. The proposed access has been designed with a kerbed central island and tight kerb radii to prevent HGV movements from turning left into the site and right out of the access and thus directing all HGVs to the A449.
140. The proposal would generate approximately 154 two-way HGV movements per full working day, which the Appellant indicates would equate to approximately 13 movements per hour. However, in my view, this represents a worst-case assumption as it makes no allowance for 'back hauling' of material.
141. The TS predicts that 60% of the development traffic would travel to/from the north and 40% to/from the south, which equates to 8 movements to the north and 5 movements to the south of the junction per hour during the network peaks. All trips would be required to travel through the Wolverley Road (B4189)/Wolverhampton Road (A449)/Parkgate Road (B4189) signalised junction. The evidence suggests that vehicles travelling to and from the site would use Wolverhampton Road (A449) or Stourbridge Road (A451). Vehicles travelling to and from the south would use Wolverhampton Road (A449). The Council indicates that both of these routes are identified as being suitable for HGV's, as advised on the Worcestershire Advisory Lorry Map.
142. The increase in traffic over the observed baseline flows on the B4189 Wolverley Road to the east of the proposed site access during the 5 day (Monday to Friday) period would be 1.8% and represent 7.6% of the observed day to day variations already occurring on the road during the same period. When considering the peak hour flows, the TS identifies that an additional 13 movements per hour represents an increase of approximately 1.3% of the existing baseline traffic flow during the peak hours and represents between 3.2% - 4.5% of the observed fluctuations in traffic currently experienced.
143. The TS refers to paragraph 2.10 of TD 41/95 'Vehicular Access to All Purpose Trunk Roads' which advises: "Generally, a material increase is considered to be if the turning traffic flows as a result of the development would increase by 5% or more...". The County Highways Officer also referred to this 5% threshold. I concur with the views of the Council and the Appellant that the increase in traffic volume on the link falls well below the 5% threshold and

³⁷ CD1.09

that the development traffic would represent less than 5% of the existing day to day variations experienced during the day and the peak hours. Consequently, I do not consider that the proposed development would result in a material increase in traffic to the extent that a severe residual cumulative impact on the highway network would be caused.

144. The TS also considers the cumulative impact of the proposed development taking into account the permitted mixed development at the former Lea Castle Hospital site off Park Gate Road and also the permitted 91 dwellings off Stourbridge Road. It concludes that neither of these developments would compromise the acceptability of the proposed development in highway terms.
145. I have also taken into account the concerns of interested parties regarding the omission of some data in the TS and the consideration of most vulnerable road users (motorcycles, pedal cycles and pedestrians) and the potential for vehicles to exit and enter the site from the west should they choose to swing out into the opposing carriageway³⁸. Supplementary information³⁹ provided by the Appellant to address the omitted data. However, I do not consider that this introduces any material technical evidence to clearly demonstrate that the proposed development would be demonstrably detrimental to the safety of vulnerable road users of an extent that would be a sustainable reason to dismiss this appeal.
146. With regard to ingress and egress to the west, the supplementary information confirms that the site access design has been assessed using AutoTRACK, which is a standard software package for the consideration of highway access design. The AutoTRACK software plots presented at Figure 3 of the TS demonstrate that unless the HGV over-rides the kerbs at the access, it cannot physically turn to or from the west when leaving and entering the site respectively, even if using the full width of Wolverley Road. In addition, I recognise that in the event of this appeal being allowed, the subsequent design of the junction, pursuant to Section 278 of the Highways Act 1980, would require further Safety Audits and review by the Council.
147. Furthermore, the evidence of Mr Hurlstone confirmed that, the HGVs, which are either operator owned or under contract to the operator, would have trackers fitted so their position at any given time can be monitored, as can the vehicle's route. Such requirement could be made the subject of an appropriate planning condition such that vehicular access and egress routes could be monitored.
148. I have taken into account the concerns of the Rule 6 party regarding the potential congestion on local roads. However, I am satisfied that the technical evidence adequately demonstrates the ability of the highway network to accommodate the traffic associated with the proposed development. I have also taken into account the Air Quality Management Area (AQMA) declared on the Kidderminster Ring Road. Whilst I have considered air quality matters earlier in this decision, there is no evidence before me that would demonstrate that proposed traffic movements would have a demonstrable and unacceptable effect on the Kidderminster Ring Road AQMA.

³⁸ ID39

³⁹ ID48

149. In the absence of any other recognised technical evidence to the contrary, I am satisfied that the proposed development would not lead to unacceptable impacts on highway safety and would meet the recognised standards for achieving safe access, including safe stopping distances for all vehicles when taking into account HGVs, gradients and road surface conditions.
150. On the basis of the evidence provided in the Inquiry, I consider that the highway impact of the proposed development would be acceptable and would not amount to a severe residual cumulative impact. Consequently, there would be no conflict with Policy MLP 39 of the MLP, Policy WCS 8 of the WCS or Part 9 of the Framework.

Effect on the special interest of nearby heritage assets

151. Although the Council's reasons for the refusal of planning permission do not identify any concerns regarding the impact of the proposed development on designated heritage assets, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such assets within the context of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have had regard to the desirability of preserving or enhancing the designated heritage assets.
152. Technical Appendix H1⁴⁰ of the ES comprises an Archaeological Desk-based Assessment. This assessment considers the effect of the proposed development on archaeological and heritage assets within a 'Study Area' determined as being within 1km of the appeal site. Although there are assets located further afield, in my view, these are sufficiently distant from the appeal site or are affected by intervening development and/or have intimate settings such that they would not be affected by the proposed development.
153. The Assessment identifies that there are no statutory heritage assets located within the site. There are three Listed Buildings and one Conservation Area within the Study Area. There are no other statutory assets recorded in the Study Area.
154. The three Listed Buildings comprise the Grade II Listed Sion Hill House (NHLE 1100640), located approximately 250m south of the site; the Grade II Listed North Lodges and Gateway of Lea Castle (NHLE 1296589) located approximately 280m north-west of the site; and, Wolverley Court (NHLE 1172846) is a Grade II Listed house located on the edge of the study area about 500m west of the site. The Wolverley and Staffordshire Canal Conservation Area crosses the western part of the Study Area.
155. There are also twelve undesignated built heritage assets in the Study Area. Five additional heritage assets were identified on or close to the site during the course of this assessment. The two South Lodges (WSM04223) are located just outside the site boundary. They flanked the entrance to the former Lea Castle Estate. Both the southern lodges have been subject to various phases of sympathetic and unsympathetic extension. Animal sheds and threshing barn (WSM30493) are recorded at the Lea Castle Farm about 75m north-west of the site. These have been converted into residential accommodation. The Lea Castle Park is surrounded by a red brick boundary wall, which largely survives to the east, south, and west of the site (AHA01).

⁴⁰ CD1.11

Broom Cottage (AHA02) is an estate cottage, located on the southern boundary of the estate. Keepers Cottage (AHA03) is located about 150m north-east of the house. The remains of a ha-ha (AHA04) are visible under undergrowth adjacent to the northern site boundary. A lodge for Sion Hill House is located on the south side of Wolverley Road, opposite the south lodges for the Lea Castle estate (AHA05).

156. The remaining undesignated built heritage assets recorded in the Study Area are not associated with Lea Castle or the park, and as they are screened from the site they were effectively scoped out of further assessment because there are no identified potential impacts.
157. The Assessment identifies that there is no intervisibility between the appeal site and Sion Hill House and Wolverley Court or their landscape setting. Consequently, these heritage assets were effectively scoped out of further assessment as there are no identified potential impacts. With regard to the Conservation Area, the Assessment also identifies that there is no intervisibility between canal and the site. It further identifies that the site appears to be totally screened from the canal by mature trees and the natural topography. As such, this was also effectively scoped out of further assessment as there were no identified potential impacts. From my site inspection, I concur with the above views.
158. The Assessment identifies that there will be an impact on the setting of the Grade II listed North Lodges and the locally significant undesignated South Lodges, Lea Castle Farm, Broom Cottage and Keepers Cottage. However, all these heritage assets are broadly screened from the site by banks of woodland and as such any impact would be minor adverse, during mineral extraction. Furthermore, given that the proposal includes reinstatement of the site to agricultural activity, replanting the parkland avenues with rows of trees, and restoration of Broom Covert, the Assessment concludes that the long-term impact of the mineral extraction on the setting of these features is considered to be not significant.
159. It concludes that it is not anticipated that any designated assets recorded in the Study Area will be significantly affected by the proposed development, although there will be a minor adverse impact on the setting of the Grade II listed North Lodges and Gateway to Lea Castle, which is located about 250m away from the site boundary. However, it states that restoration of some of the parkland features, including tree lined avenues and Broom Covert will reduce the long-term impact of the mineral extraction to an insignificant level.
160. The Assessment states that, generally, the preservation of the former Lea Castle Park is poor and the proposed development would not directly impact on any of the surviving park features except the removal of a section of boundary wall to enable the access works and which would be reinstated as part of restoration works. As such, the impact of the development would not be significant on the former park.
161. With regard to archaeology, the Assessment considers that, overall, there is limited evidence of prehistoric and Roman activity in the study area. There is also limited evidence for early medieval and medieval activity in the study area. Evidence for any activity of the prehistoric, Roman, early medieval and medieval periods would likely be of local to regional significance. However, given the very limited representation of such material within the study area

the Assessment indicates that the potential for survival of assets dating to these periods within the site is low.

162. The Assessment states that historic mapping and other documents indicates that the site was developed as parkland around Lea Castle during the early 19th century. The park was sold off around the 1930s or 1940s and the parkland was converted to agricultural use which has compromised the value of the park. The western part of the site was also used as a grass landing strip. Consequently, any archaeological evidence from the post medieval and modern periods would probably relate to agriculture, parkland, and/or the landing strip and, therefore, are considered as only locally informative, and of low or negligible significance.
163. During consultations on the planning application Historic England stated that they did not wish to comment on the Assessment. Subject to the imposition of planning conditions where appropriate, the Wyre Forest District Council Conservation Officer, the Council's County Archaeologist and the Hereford and Worcester Gardens Trust raised no objections to the proposed development.
164. In concluding on this matter, I am of the view that the proposed development would lead to a temporary degree of harm to the setting of North Lodges and Gateway to Lea Castle, which should be considered as 'less than substantial'. In such situations, paragraph 202 of the Framework requires a balanced approach, with any 'harm' caused to the significance of the heritage asset being weighed against the public benefits of the proposal.
165. There would be minor harm to the setting of the locally significant undesignated South Lodges, Lea Castle Farm, Broom Cottage and Keepers Cottage. However, all these heritage assets are broadly screened from the site by banks of woodland and as such any impact would be minor. Consequently, taking into account paragraph 203 of the Framework, I consider that the proposed development would not have an unacceptable adverse impact on the setting of these non-designated heritage assets. The proposal would not harm the significance of the designated heritage asset of the Staffordshire and Worcestershire Canal Conservation Area.
166. I conclude that the benefits identified above relating to the supply of sand and gravel, and considered elsewhere in this decision, would outweigh the less than substantial harm that would be caused to the setting of the heritage asset. Consequently, the proposed development would not be in conflict with the relevant provisions of Policy MLP 32 of the MLP, Policy WCS 9 of the WCS, Policy SP.21 of the WFDLP nor with the relevant provisions of Part 16 of the Framework.

Effect on the Local economy

167. Interested Parties and the Rule 6 Party consider that the presence of an open quarry in the area would have a potentially significantly impact on the viability of nearby local businesses. This is because of the perception of visual harm and harm to health due to the proximity of the proposed development to existing local businesses, in particular the Heathfield Knoll School and First Steps Nursery, and the fact that a quarry will inevitably make the area less attractive to visit and thereby have a detrimental effect on the tourist economy and in particular the Brown Westhead Caravan and Camping Site. It was contended that the employment impact could be more significant than

the estimated jobs created and that this impact would inure over a longer term than the duration of the development.

168. There was no conclusive evidence provided in the Inquiry to make any reasonable judgement of the effect of the proposal on existing economic development in the local area. Whilst I accept that the proposed development would not provide many jobs, my attention was not drawn to any policy in the development plan that may set out a minimum level of jobs to be created in a development proposal.
169. I recognise the concerns that the proposal may be a detractor to parents who may be considering enrolling pupils at nearby schools. However, I am not convinced that these concerns would be likely to translate into material land use considerations if the appeal were to be allowed and the appeal scheme was regulated in accordance with the suggested planning conditions and an Environmental Permit issued by the Environment Agency.
170. It seems to me that the local concerns derive from a perception of harm. There is no evidence before me to conclusively demonstrate that quarrying activity has adversely affected economic development or housing demand elsewhere in the country. In this regard, many mineral extraction operations occur in National Parks or Areas of Outstanding Natural Beauty whose economies are particularly reliant on tourism.
171. The addition of 11 full-time employees at the quarry for up to 10 years would make a modest contribution to the local economy. The development enterprise would have some secondary or multiplier economic effects. Although the Appellant suggest that these would be substantial, there is no evidence to suggest that this would be a significant benefit to the local economy due to the specialist nature of some of the quarrying plant. In my view such local benefits would be modest, but nonetheless beneficial. Given the nature and scale of the proposed operation, I consider that the likely effect on the economy would be a benefit of minor significance.
172. Whilst the perception of harm to the local economy can be a material planning consideration, I am satisfied that, in the absence of any substantive evidence to the contrary, there would be no material harm to economic development interests or housing demand in the locality. In these circumstances, I consider that only limited weight is attributable to the perception of harm to the local economy and the effect on housing demand. In my view, the scheme would not give rise to a significant conflict between land uses in the area.

Other matters

Hydrology and Hydrogeology

173. The risk of groundwater pollution was not cited by the Council as a reason for refusal, but potential harm to the public water supply is of great concern to local residents.
174. The ES includes a Hydrological and Hydrogeological Impact Assessment⁴¹ (HHIA). This identifies that the appeal site boundary straddles the physical surface water catchments of the River Stour (Smestow Brook to River Severn)

⁴¹ CD1.13

to the north and the Blakedown Brook (source to River Stour) to the south, both being sub-catchments of the Stour and Tributaries EA Operational Catchment. It also identifies that the catchments within which the site is located do not form part of any Drinking Water Protected Area (DWPA_{sw}) or Safeguarding Zone for surface water (DWSZ_{sw}).

175. Analysis of the solid geology in the HHIA indicates that the site is underlain by the Sherwood Sandstone Group which forms the principal aquifer in the South Staffordshire and North Worcestershire Region. Superficial deposits of sand and gravel are located on the western half of the site whilst the eastern half of the site is mapped to be free of superficial deposit.
176. The proposed development would involve the extraction of superficial sand and gravel and underlying unconsolidated sandstones from a principal aquifer. The HHIA identifies that mineral extraction will be undertaken entirely within the unsaturated zone of the aquifer and the available data indicates that the lowest planned sections of extraction and subsequent infilling will reside between approximately 16m and 24m above the watertable. Screening has identified two mechanisms by which existing groundwater levels and flows may be affected by implementation of the proposed development. These comprise the potential for temporary modification of groundwater recharge due to stripping of overburdens and/or mineral extraction within the unsaturated zone, and the potential for long-term modification of groundwater recharge due to landfilling.
177. The HHIA identifies that there will be no significant change to the current rates or distribution of groundwater recharge and therefore there will be no discernible adverse impact upon groundwater levels and flows by any of the mechanisms identified by screening. The landfilling activities would be governed by the Environmental Permitting regime which would also include a further requirement for hydrogeological risk assessment and may require lining work to the ground prior to infilling or further controls regarding the nature of the inert fill.
178. The HHIA recognises that groundwater contamination could arise due to accidental spillage and/or undetected long-term leakage of potential contaminants. However, I concur that these are matters that can be controlled by the imposition of appropriate planning conditions. In this regard, I consider that suggested conditions 25 – 27 would provide an appropriate mechanism to manage such risks.
179. Whilst it is not necessary to go into further detail of the HHIA in this decision, it concludes that in view of the findings of assessment and the planned approach to the proposed development, which includes specific measures for the protection of the water environment, there are considered to be no over-riding hydrogeological or hydrological based reasons why the proposed development should not proceed in the manner described in the application.
180. Following the receipt of additional information, the Environment Agency and Natural England raised no objections to the proposed development subject to a groundwater and surface water level quality monitoring scheme being secured and the maintenance of proposed soakaways.

181. Interested parties have provided comments⁴² on aspects of the HHIA which I have carefully considered. These comment that the HHIA has not answered any of the main concerns from technical consultees and has only skirted around the subjects by reporting distances from sites and present rain fall in the area. Consequently, answers on how to mitigate problems if they should arise have not been provided.
182. I have placed considerable weight on the views of the Environment Agency with regard to the hydrological and hydrogeological matters. Subject to the imposition of appropriate planning conditions, I am satisfied that the concerns can be adequately controlled to the extent that there would unlikely be a detrimental impact on such matters. Whilst I recognise the detail that has been provided in the comments by interested parties, I do not consider that these would constitute a sustainable reason for the dismissal of this appeal in the light of the responses from the Environment Agency and Natural England. Consequently, I do not consider that the proposed development would be contrary to Policy MLP 37 of the MLP.

Convention Rights of a Child

183. Interested parties suggested that the proposed development would breach Article 8 of the European Convention on Human Rights and in particular Article 3(1) of the United Nations Convention on the Rights of the Child which provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
184. No clear and coherent evidence was presented to suggest how the Convention on the Rights of a Child may be breached. However, from the references made in written representations, I have interpreted such concerns to relate to the impact of the proposed development on human health as a consequence of the effect on air quality and dust emissions with particular regard to children using the PRoW network and attending nearby schools.
185. I have had regard to case law in this matter and in particular *Jane Stevens v The Secretary of State for CLG [2013] EWHC 792 (Admin)* (paragraphs 56-69). I have found above that the proposed development would not result in unacceptable levels of dust and that maximum average background PM₁₀ and PM_{2.5} concentrations for the grid squares in which the proposed site is located are predicted to be substantially below the relevant AQOs. Furthermore, I have found that there is no compelling evidence that the proposed development would pose a potential significant risk to the local population due to RCS.
186. Whilst the Rights of a Child are capable of being a primary consideration that can be afforded significant weight, given my findings above, the evidence in this case indicates that the proposed development would not have an adverse material impact on children to the extent that would constitute a clear breach of rights under Article 8 and the United Nations Convention on the Rights of the Child. Moreover, no clear compelling competent evidence was presented in the Inquiry to describe in any substantive detail how such rights would be breached.

⁴² ID31

Planning conditions

187. I have considered the suggested planning conditions agreed between the Appellant and the Council. I have also taken into account the comments of the Rule 6 Party with regard to some of the conditions. In my view, the suggested conditions would meet the tests set out in the PPG and the Framework. It is not necessary for me to consider each individual planning condition in the context of this decision. However, I am satisfied that, where appropriate, the suggested conditions would adequately mitigate some of the impacts that I have identified earlier in this decision and, where necessary, I have set out the relevant condition that would address such impacts.

Planning Balance

188. I have found that, subject to appropriate planning conditions, the proposed development would not, by reason of noise, dust or poor air quality, have a significant adverse effect on the amenity of the area or the living conditions and health of those living nearby or using recreational features. In addition, I do not consider that it would have a significant adverse effect on the character or appearance of the site and the surrounding landscape of an extent to sustain the dismissal of this appeal on those grounds, nor would any visual receptor receive a significant adverse effect during the proposed development of an extent that would be materially detrimental to living conditions.

189. I do not consider that the proposed development would cause a severe residual cumulative impact on the road network. Any increased risk to highway safety would be negligible, and so should not weigh in the planning balance. There would be no loss of accessibility to the PRoW network for the duration of the operations but there would be a loss of some open views that users would experience. However, I consider this, in planning terms, to be of minor significance but should be afforded limited weight. I consider that only limited weight is attributable to the perception of harm to the local economy.

190. However, I have found that the appeal scheme would not preserve the openness of the Green Belt. Therefore, the proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and should not be approved except in VSC. Consequently, it is necessary to consider whether the inappropriateness of the proposed development, and any other harm, is clearly outweighed in the planning balance by other considerations so as to amount to the VSC necessary to justify the development.

191. The Appellant set out in evidence what matters are considered to constitute VSC. It is clear that a seven-year landbank for sand and gravel cannot be demonstrated in the County. The appeal scheme would make a notable contribution to the supply of needed minerals which is a matter of substantial significance that should, in accordance with Paragraph 211 of the Framework, be given great weight.

192. The economic benefits of the proposed development, including the provision of a minimum of 11 full time jobs, would make a modest contribution to the local economy. In my view, these benefits should be awarded moderate weight.

193. I have also considered the temporary nature of the proposed development. I have afforded only slight positive weight to this matter as that is the nature of mineral extraction. It is a consideration in determining the quantum of any harm but cannot also be used as a factor to weigh in favour of a proposal in assessing whether VSC exist.
194. The landscape benefits of the scheme should be afforded moderate weight in the planning balance. The scheme would result in permanent enhancements to the PRoW network, which is a benefit that should be given some slight weight.
195. There is no dispute between the main parties that the proposal would deliver biodiversity net gain of +39.31%BU for habitats, and +107.51%hu for hedgerows. The net gain would be nearly 4 times that required by forthcoming legislation. However, some of the biodiversity net gain that would be achieved is required to meet national policy and future legislative requirements in order to mitigate the environmental impact of the development. Consequently, I consider that such enhancements should be afforded only moderate weight.
196. I have found that there would be less than substantial harm to the setting of North Lodges and Gateway to Lea Castle. I have had special regard to the preservation of the setting of this heritage asset. I conclude that the benefits identified above outweigh the less than substantial harm that would be caused to the setting of this heritage asset.
197. Taking the above into account, there are clearly material planning benefits associated with the proposed development in addition to the great weight that should be attached to the supply of minerals. However, in this case I have found that the spatial position and contained nature of the appeal site emphasises its local importance in fulfilling Green Belt purposes and I have attached significant weight to this matter.
198. Although a phased development is proposed, the operations would be intensive and occupy considerable areas of the site at any one time for the purposes of extraction, infilling and bund placement/removal. Whilst some bunds will be grassed, they will nonetheless appear as engineered features that will not entirely assimilate into the landscape. The erection, maintenance and dismantling of the bunds has an impact on openness, in addition to their ongoing presence in the landform, for shorter or longer periods. The proposed operations, due to their expansive nature within the confines of this site, would, in combination with the bunds, contribute to a loss of openness.
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. Whilst this concern does not constitute a determinative reason to dismiss this appeal, it does add to my concerns regarding the effect on the openness of the Green Belt. Irrespective of this matter, I am of the opinion

that the proposed development before me would not preserve the openness of the Green Belt.

200. I have set out above the spatial importance of this area of Green Belt. This contributes to my view in this case that the appeal site plays an extremely important Green Belt role. In this inappropriate development scenario, I consider that the other considerations comprising the benefits of the proposed sand and gravel extraction, and the other material planning benefits that I have identified above, would not outweigh the harm to the openness of the Green Belt that I have found in this case. Although very finely balanced, in my judgement, the harm by reason of inappropriateness as a consequence of the loss of openness, is not clearly outweighed by other considerations, and the VSC necessary to justify the development would not outweigh the harm. Therefore, the proposed development would conflict with Policy MLP 27 of the MLP, Policy WSC 13 of the WCS, Policy DM.22 of the WFDLP, and would be contrary to national policy concerning the Green Belt.

Conclusion

201. For the above reasons, based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR

ANNEX A

APPEARANCES

FOR THE APPELLANT:

Satnam Choongh

Counsel for the Appellant instructed
by Heaton Planning Limited on behalf
of NRS Aggregates Limited

He called

Rachel Canham BEng, MSc, CEng,
FIOA

Director Walker Beak Mason Limited
(WBM) Acoustic Consultants

Katrina Hawkins BSc, MSc, CENV,
MIES, MIAQM, MIEMA

Chairman, Smith Grant LLP
Environmental Consultants

Neil Furber BSc, DipLA, CMLI

Associate Director, HCUK Group Ltd

Jeremy Hurlstone BSc, CMILT, MCIHT

Managing Director, The Hurlstone
Partnership Limited

Liam Toland BA(Hons), MSc, MRTPI

Liam Toland Planning

FOR WORCESTERSHIRE COUNTY COUNCIL

Sarah Clover

Counsel for Worcestershire County
Council

She called

Christopher Whitehouse BSc, MRICS Managing Director, NextPhase

FOR STOP THE QUARRY CAMPAIGN (RULE 6 PARTY)

Sioned Davies

Counsel for the Rule 6 Party
instructed by Tim Partridge on behalf
of the Rule 6 Party

She called

Adrian Carloss

David Langford

Bill Houle FRICS

Mike Lord BA(Hons)

Rebecca Hatch

Matt Harthill

Tim Partridge MRTPI

INTERESTED PERSONS WHO SPOKE AT THE INQUIRY

Mark Garnier MP	Member of Parliament for Wyre Forest
Bryn Thomas	Headteacher Wolverley CE Secondary School
Vickie Crisp	Headteacher Cookley Sebright Primary School
Lawrence Collins	Headmaster Heathfield Knoll School
Councillor Marcus Hart	Wyre Forest District Council
Councillor Lisa Jones	Wyre Forest District Council
Joanna Phillips	Local Resident
Rebecca Vale	Local Resident
Gail Blunn	Local Resident
Chris Hathaway	Local Resident
Alex Badger	Local Resident
Jemma Powell-Tibbetts (accompanied by Evie and Ellie Powell-Tibbetts)	Local Residents
Councillor Simon Sherrey	Wolverley & Cookley Parish Council
Jan Porter	Local Resident
Katherine Evans	Hurcott Village (Management) Limited
Roger Perrin	Local Resident
Bill Houle	Speaking on behalf of Mr & Mrs McDonald
Maxine Huselbee	Local Resident
Joe Harvey	Local Resident
Jo Collins	Local Resident
Peter King	CPRE Worcestershire Branch
Bill Scriven	Local Resident
Julie Bradbury	Local Resident
Dean Talbot	Local Resident
Karen Anderson	Local Resident
David Jones	Local Resident
Liz Black	Local Resident
Councillor Fran Oborski	Wyre Forest District Council
Mick Parker	Local Resident
Andrew Webber	Local Resident
Judy Hinksman	Local Resident
Sheila Nock	Local Resident

ANNEX B**LIST OF DOCUMENTS SUBMITTED DURING THE INQUIRY**

Inquiry Document (ID)	Description of Document	Date Submitted
ID1	Opening Submissions on behalf of the Appellant	28.02.2023
ID2	Opening Submissions on behalf of Worcestershire County Council	28.02.2023
ID3	Opening Submissions on behalf of the Rule 6 Party	28.02.2023
ID4	List of Appearances on behalf of Rule 6 Party	28.02.2023
ID5	Submission by Wendy Patrick	28.02.2023
ID6	List of Appearances on behalf of the Appellant	28.02.2023
ID7	Transcript of Statement read by Mark Garnier MP	28.02.2023
ID8	Data supplied by Lawrence Collins	28.02.2023
ID9	Transcript of Statement read by Jemma Powell-Tibbetts	28.02.2023
ID10	Transcript of Statement read by Jan Porter	28.02.2023
ID11	Transcript of Statement read by Bill Houle on behalf of Mr & Mrs McDonald	28.02.2023
ID12	Photographs submitted by Maxine Huselbee	28.02.2023
ID13	Photographs submitted by Bill Scriven showing road alignment and road conditions	28.02.2023
ID14	Transcript Slides of Gail Blunn	28.02.2023
ID15	Transcript of Statement read by Joanna Phillips	28.02.2023
ID16	Transcript of Statement read by Councillor Lisa Jones	28.02.2023
ID17	Transcript of Statement read by Peter King (CPRE)	28.02.2023
ID18	Transcript of Statement read by Councillor Simon Sherrey	01.03.2023
ID19	Transcript of Statement read by Katherine Evans on behalf of Hurcott Residents Committee	01.03.2023
ID20	Health and Safety Executive (HSE) Webpage: 'Silicosis'	02.03.2023
ID21	OS Extract provided by Bill Houle	02.03.2023
ID22	Air Quality Management Area (AQMA) Plan of Kidderminster provided by Bill Houle	02.03.2023
ID23	Representation submitted by Lynne Reeves regarding the Little Horseshoe Bat	03.03.2023

ID24	Appellants response to representation by Lynne Reeves	03.03.2023
ID25	Extract from Sustainability appraisal for Worcestershire Minerals Local Plan	03.03.2023
ID26	Transcript of Statement read by Alex Badger	07.03.2023
ID27	Transcript of Statement read by Maxine Huselbee and Photographs	07.03.2023
ID28	Note submitted by Council providing clarification of pending sand and gravel planning applications	07.03.2023
ID29	High Court Decision Esmond Jenkins v Gloucestershire County Council v Moreton C Cullimore (Gravels) Limited, Cotswold Water park society, Environment Agency	07.03.2023
ID30	Representation submitted by Jeff Sadik	07.03.2023
ID31	Transcript of Statement read by Dean Talbot on the Hydrological and Hydrogeological Impact Assessment, Revision 5	07.03.2023
ID32	Transcript of Statement read by Mick Parker	07.03.2023
ID33	Transcript of Notes read by Andrew Webber	07.03.2023
ID34	Transcript of Statement read by Judy Hinksman	07.03.2023
ID35	Transcript of Statement read by Sheila Nock	07.03.2023
ID36	Transcript of Statement read by Dean Talbot on Health Issues, Revision 2	07.03.2023
ID37	Transcript of Statement read by Liz Black	07.03.2023
ID38	Transcript of Statement read by Councillor Orborski	07.03.2023
ID39	Additional highway safety notes provided by Andrew Webber	07.03.2023
ID40	Secretary of State for Environment, Transport and the Regions v Skerritts of Nottingham Ltd provided by the Council	07.03.2023
ID41	Representations submitted by Lisa Whittaker	08.03.2023
ID42	Transcript of Statement read by David Jones	08.03.2023
ID43	Note submitted by the Appellant regarding Permitted Landfill Sites in the County	08.03.2023
ID44	Transcript of Statement read by Karen Anderson	08.03.2023
ID45	Closing submissions on behalf of Worcestershire County Council	08.03.2023
ID46	Closing submissions on behalf of the Rule 6 Party	08.03.2023
ID47	Closing submissions on behalf of the Appellant	08.03.2023

ANNEX C

LIST OF DOCUMENTS REQUESTED BY THE INSPECTOR AND SUBMITTED AFTER THE CLOSE OF THE ORAL SESSIONS OF THE INQUIRY

Inquiry Document (ID)	Description of Document	Date Submitted
ID48	Appellant response to highway matters raised by Andrew Webber (ID39)	13.03.2023
ID49	Rule 6 Party response to Appellant's note regarding Permitted Landfill Sites in the County (ID43)	20.03.2023
ID50	Council's comments on Note Provided by Appellant regarding Permitted Landfill Sites (ID43)	23.03.2023
ID51	Revised Schedule of Planning Conditions	28.03.2023
ID52	Rule 6 Party comments on the Revised Schedule of Planning Conditions (ID51)	03.04.2023
ID53	Appellant response to Rule 6 Party comments on the Revised Schedule of Planning Conditions (ID52)	19.04.2023

ANNEX D

CORE DOCUMENTS (CD)

CD1 – Original Submission	
CD1.01	Planning Application Form
CD1.02-	Planning Statement
CD1.03	Environmental Statement
CD1.04	Technical Appendix A – Landscape and Visual Impact Assessment
CD1.05	Technical Appendix B – Ecological Impact Assessment
CD1.06	Technical Appendix C – Pre-Development Tree Condition Survey
CD1.07	Technical Appendix D – Noise Assessment
CD1.08	Technical Appendix E – Air Quality and Dust Assessment
CD1.09	Technical Appendix F – Transport
CD1.10	Technical Appendix G – Agricultural Land Classification and Soils Resource Report
CD1.11	Technical Appendix H.1 – Archaeological Desk Based Assessment
CD1.12	Technical Appendix H.2 – Written Scheme of Investigation
CD1.13	Technical Appendix I – Hydrological and Hydrogeological Impact Assessment
CD1.14	Technical Appendix J – Leisure and Recreation Report
CD1.15	Technical Appendix K.1 – Health Impact Assessment
CD1.16	Technical Appendix K.2 – Matrix Health Assessment
CD1.17	KD.LCF.001 – Location Plan (October 2019)
CD1.18	KD.LCF.014 – Application Boundary / Other land in control of the applicant (October 2019)
CD1.19	KD.LCF.002 – Current Situation (October 2019)
CD1.20	KD.LCF.013 – Proposals Plan (October 2019)
CD1.21	KD.LCF.011 – Operational (Disturbed) Land (October 2019)
CD1.22	KD.LCF.021 – Plant Site Layout – Plan & Elevations (October 2019)
CD1.23	KD.LCF.022 – Plant Site – Conveyor running beneath PROW 62 6(B) (October 2019)

CD1.24	KD.LCF.003 – Initial Works (October 2019)
CD1.25	KD.LCF.004 – Phase 1 Working & Restoration (October 2019)
CD1.26	KD.LCF.005 – Phase 2 Working & Restoration (October 2019)
CD1.27	KD.LCF.006 – Phase 3 Working & Restoration (October 2019)
CD1.28	KD.LCF.007 – Phase 4 Working & Restoration (October 2019)
CD1.29	KD.LCF.008 – Phase 5 Working & Restoration (October 2019)
CD1.30	KD.LCF.009 – Final Works (October 2019)
CD1.31	KD.LCF.010 – Concept Restoration (October 2019)
CD1.32	KD.LCF.028 – Restoration Sections (October 2019)
CD1.33	Non-Technical Summary

CD2 – Initial Statutory Consultation Responses	
CD2.01	Western Power Distribution – 28.1.2020
CD2.02	Severn Trent Water – 12.2.2020
CD2.03	Historic England – 14.2.2020
CD2.04	Forestry Commission – 17.2.2020
CD2.05	Public Health England – 17.2.2020
CD2.06	West Mercia Police – 17.2.2020
CD2.07	Worcestershire Regulatory Services Air Quality and Contaminated Land – 19.2.2020
CD2.08	Herefordshire & Worcestershire Gardens Trust – 20.2.2020
CD2.09	County Ecology Comments – 24.3.2020
CD2.10	Canal & River Trust – 24.2.2020
CD2.11	Cllr Cook & Cllr Rayner – 26.2.2020
CD2.12	Cllr Cook & Cllr Rayner Additional Comments – 26.2.2020
CD2.13	Highways Comments – 26.2.2020

CD2.14	Kidderminster Town Council – 27.2.2020
CD2.15	Worcestershire Regulatory Services Noise and Dust – 27.2.2020
CD2.16	District Conservation Officer – 27.2.2020
CD2.17	District Countryside & Parks Manager – 27.2.2020
CD2.18	District Tree Officer – 27.2.2020
CD2.19	Campaign to Protect Rural England – 10.3.2020
CD2.20	Earth Heritage Trust 1 – 12.3.2020
CD2.21	Earth Heritage Trust 2 – 12.3.2020
CD2.22	North Worcestershire Water Management – 12.3.2020
CD2.23	Public Rights of Way – 16.3.2020
CD2.24	Wolverley & Cookley Parish Council – 16.3.2020
CD2.25	County Archaeologist – 18.3.2020
CD2.26	British Horse Society – 19.3.2020
CD2.27	Woodland Trust – 19.3.2020
CD2.28	British Horse Society – 20.3.2020
CD2.29	County Landscape – 20.3.2020
CD2.30	Worcestershire Wildlife Trust – 25.3.2020
CD2.31	The Garden Trust – 26.3.2020
CD2.32	Hereford & Worcester Fire and Rescue Service – 27.3.2020
CD2.33	Ramblers Association – 30.3.2020
CD2.34	Environment Agency – 31.3.2020
CD2.35	County Council Sustainability Team – 2.4.2020
CD2.36	Further Public Rights of Way Comments – 16.4.2020
CD2.37	Natural England – 1.5.2020
CD2.38	Worcestershire Regulatory Services Air Quality further comments – 27.5.2020
CD2.39	Worcestershire Regulatory Services Noise and Dust further comments – 4.6.2020

CD2.40	Further Ecology Comments – 5.6.2020
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CD3 – 1st Regulation 25 Submission	
CD3.01	Regulation 25 Request
CD3.02	Regulation 25 Submission Document
CD3.03	Appendix A – BCL Hydro Consultant Report
CD3.04	Appendix B – Response to Arboriculture and Protected Species Comments
CD3.05	Appendix C – Updated Concept Restoration (September 2020) KD.LCF.010A
CD3.06	Appendix C – Surface Water Management Plan KD.LCF.032
CD3.07	Appendix C – Restoration Sections – The Avenue KD.LCF.036
CD3.08	Appendix D – Soil Volumes
CD3.09	Appendix E Bund 2: Tree Root Protection Areas KD.LCF.035
CD3.10	Appendix F – Biodiversity Net Gain Report
CD3.11	Appendix G – Woodland: Outline Establishment and Aftercare Strategy
CD3.12	Appendix H – Materials for Restoration
CD3.13	Appendix I – Historic Environment Note
CD3.14	Appendix J – Location of NRS Existing and Potential Quarry Sites
CD3.15	Appendix K – Road Safety Audit and Hurlstone Partnership Response
CD3.16	Appendix L – Technical Specification for the Below Ground Conveyor
CD3.17	Appendix M – Public Rights of Way Proposed KD.LCF.033 and Post Restoration Public Rights of Way Plan KD.LCF.034
CD3.18	Amended Restoration Sections Plan KD.LCF. 028A
CD3.19	Dormouse Report
CD3.20	Response to Stop the Quarry Action Group
CD3.21	Response to Wolverley and Cookley Parish Council
CD3.22	Response to CPA Email dated 5 th June 2020
CD3.23	Updated Certificates

CD4 – 1st Regulation 25 Consultation Responses	
CD4.01	Worcestershire Wildlife Trust – 20.11.2020
CD4.02	Cllr Rayner – 22.11.2020
CD4.03	Canal & River Trust – 23.11.2020
CD4.04	Further Cllr Rayner Comments – 23.11.2020
CD4.05	County Ecologist– 25.11.2020
CD4.06	Worcestershire Regulatory Service Noise and Dust – 26.11.2020
CD4.07	The Ramblers Association & The MHDFS – 29.11.2020
CD4.08	Further Worcestershire Wildlife Trust – 01.12.2020
CD4.09	Public Health England – 1.12.2020
CD4.10	Historic England – 3.12.2020
CD4.11	Lead Local Flood Authority – 3.12.2020
CD4.12	Further County Ecologist Comments – 4.12.2020
CD4.13	North Worcestershire Water Management – 9.12.2020
CD4.14	Hereford & Worcester Gardens Trust Further Comments – 6.12.2020
CD4.15	County Highways – 14.12.2020
CD4.16	Further County Ecologist Comments – 14.12.2020
CD4.17	Environment Agency – 15.12.2020
CD4.18	British Horse Society – 18.12.2020
CD4.19	Wolverley & Cookley Parish Council – 18.12.2020
CD4.20	County Archaeologist – 22.12.2020
CD4.21	Worcestershire Regulatory Services Contaminated Land and Air Quality – 22.12.2020
CD4.22	Public Rights of Way – 04.01.2021
CD4.23	West Mercia Police – 14.1.2021
CD4.24	Earth Heritage Trust – 18.1.2021
CD4.25	The Garden Trust – 18.1.2021

CD4.26	Woodland Trust – 18.01.2021
CD4.27	Worcestershire Regulatory Services Air Quality further comments – 18.01.2021
CD4.28	Worcestershire Regulatory Services Noise and Dust further comments – 18.1.2021
CD4.29	Further Worcestershire Wildlife Trust Comments 1 – 27.1.2021
CD4.30	Further Worcestershire Wildlife Trust Comments 2 – 27.1.2021
CD4.31	Campaign to Protect Rural England – 29.1.2021
CD4.32	County Landscape – 2.2.2021
CD4.33	Further County Ecologist Comments – 3.2.2021
CD4.34	County Highways – 18.2.2021
CD4.35	Wyre Forest District Council Arboriculture Comments – 19.2.2021
CD4.36	Wyre Forest District Council Conservation Officer – 19.2.2021
CD4.37	Wyre Forest District Council Countryside & Parks Manager – 19.2.2021
CD4.38	Wyre Forest District Council Formal Comments – 26.2.2021
CD4.39	Natural England – 9.3.2021
CD4.40	Severn Trent Water – 14.1.2021

CD5 – 2nd Regulation 25 Submission	
CD5.01	Regulation 25 Consultation Email Request
CD5.02	Regulation 25 Cover Email
CD5.03	KD.LCF.013A – Proposals Plan (July 2021)
CD5.04	KD.LCF.003A – Initial Works (July 2021)
CD5.05	KD.LCF.004A – Phase 1 Working & Restoration (July 2021)
CD5.06	KD.LCF.005A – Phase 2 Working & Restoration (July 2021)
CD5.07	KD.LCF.006A – Phase 3 Working & Restoration (July 2021)
CD5.08	KD.LCF.007A – Phase 4 Working & Restoration (July 2021)
CD5.09	KD.LCF.008A – Phase 5 Working & Restoration (July 2021)

CD5.10	KD.LCF.009A – Final Works (July 2021)
CD5.11	KD.LCF.010B – Concept Restoration (July 2021)
CD5.12	KD.LCF.033C – Public Rights of Way Proposed (July 2021)
CD5.13	KD.LCF.034C – Post Restoration Public Rights of Way Plan (July 2021)
CD5.14	KD.LCF.026A – Current & Proposed Public Rights of Way Figure 5A (July 2021)
CD5.15	KD.LCF.042 – Root Protection: Existing Avenue Trees (July 2021)
CD5.16	Amended Non-Technical Summary
CD5.17	Amended ES Chapter 16 – Public Rights of Way
CD5.18	Response to Dormice comments
CD5.19	Dormice Survey Drawing
CD5.20	Response to Tree T22 Queries – 30.4.2021
CD5.21	Arboriculture Appendix 4 – Tree Protection Fencing
CD5.22	Typical Sections through land around Tree 22
CD5.23	Response to Landscape Officer Comments – 30.4.2021
CD5.24	Response to Hereford and Worcester Gardens Trust – 30.4.2021
CD5.25	Response to North Worcestershire Water Management – 19.7.2021
CD5.26	Response to Public Rights of Way Officer – 14.6.2021
CD5.27	Response to Public Rights of Way Officer – 19.7.2021
CD5.28	Response to County Ecologist – 17.9.2021

CD6 – 2nd Regulation 25 Consultation Responses	
CD6.01	County Archaeologist Comments – 5.8.2021
CD6.02	Worcestershire Regulatory Services Air Quality, Noise and Contaminated Land Comments – 5.8.2021
CD6.03	Canal & River Trust Comments – 6.8.2021
CD6.04	Public Health England – 6.8.2021
CD6.05	Historic England Comments – 9.8.2021

CD6.06	North Worcestershire Water Management Comments – 11.8.2021
CD6.07	Hereford & Worcester Gardens Trust Comments – 16.8.2021
CD6.08	District Countryside and Technical Services Manager Comments – 23.8.2021
CD6.09	District Tree Officer Comments – 24.8.2021
CD6.10	Wyre Forest District Council Comments – 24.8.2021
CD6.11	County Ecologist Comments – 27.8.2021
CD6.12	Worcestershire Wildlife Trust Comments – 2.9.2021
CD6.13	District Countryside and Technical Services Manager Further Comments – 3.9.2021
CD6.14	County Highways Comments – 6.9.2021
CD6.15	Public Rights of Way Officer Comments – 6.9.2021
CD6.16	Environment Agency Comments – 6.9.2021
CD6.17	Sustainability Officer Comments – 6.9.2021
CD6.18	Sustrans Comments – 6.9.2021
CD6.19	Earth Heritage Trust Comments – 6.9.2021
CD6.20	County Public Health Comment – 7.9.2021
CD6.21	Natural England Comments – 7.9.2021
CD6.22	Cllr Rayner & Rook Comments – 8.9.2021
CD6.23	County Landscape Officer Comments – 8.9.2021
CD6.24	Wolverley & Cookley Parish Council – 8.9.2021
CD6.25	British Horse Society Comments – 9.9.2021
CD6.26	Woodland Trust Comments – 9.9.2021
CD6.27	Severn Trent Water Ltd Comments – 10.9.2021
CD6.28	Kidderminster Town Council Comments – 29.9.2021
CD6.29	Worcestershire Regulatory Services Comments re Housing & HGVs – 5.10.2021
CD6.30	Worcestershire Regulatory Services Comments re Air Quality – 14.10.2021
CD6.31	Natural England Comments – 14.10.2021

CD6.32	District Council Tree Officer Comments – 14.10.2021
CD6.33	Woodland Trust Comments – 15.10.2021
CD6.34	Wyre Forest DC Countryside Officer Comments – 18.10.2021
CD6.35	County Ecologist Comments – 21.10.2021
CD6.36	Further County Landscape Officer Comments – 23.10.2021
CD6.37	British Horse Society Clarification – 2.12.2021
CD6.38	Further British Horse Society Comments – 2.12.2021
CD6.39	Further Footpath Officer Comments – 2.12.2021
CD6.40	Further Ecology Comments – 10.12.2021
CD6.41	County Archaeologist Comments – 14.12.2021
CD6.42	Worcestershire Regulatory Services Air Quality Officer – 30.12.2021
CD6.43	County Highways Comments – 6.1.2022
CD6.44	Worcestershire Regulatory Services Noise and Dust Officer Comments – 6.1.2022

CD7 – Response to Consultation Responses	
CD7.01	Response to County Ecologist – 17.9.2021
CD7.02	Response re Clarification Size of each phase – 22.9.2021
CD7.03	Response re Vehicle Movements & Air Quality – 23.9.2021
CD7.04	Response from Bob Williams re Ancient Woodland – 11.10.2021

CD8 – 3rd Regulation 25 Submission	
CD8.01	Regulation 25 Request
CD8.02	Habitat Regulations Assessment
CD8.03	Appendix 1 – Preliminary Ecological Appraisal
CD8.04	Appendix 2 – BCL Hydro

CD8.05	Appendix 3 – Air Quality and Dust
CD8.06	Appendix 4 – Ecological Impact Assessment
CD8.07	Appendix 5 – Ancient Woodland
CD8.08	Appendix 6 – County Ecologist Response
CD8.09	Final Habitat Regulations Assessment – 29.4.2022

CD9 – 3rd Regulation 25 Consultation Responses	
CD9.01	Further Ecology Comments – 7.2.2022
CD9.02	Cadent Gas Comments – 3.3.2022
CD9.03	ESP Comments – 3.3.2022
CD9.04	Last Mile Comments – 3.3.2022
CD9.05	Western Power Comments – 3.3.2022
CD9.06	Campaign to Protect Rural England – 18.3.2022
CD9.07	ESP Bespoke Comments – 18.3.2022
CD9.08	Hereford & Worcester Fire & Rescue Service Comments – 20.3.2022
CD9.09	Canal & River Trust Comments – 21.3.2022
CD9.10	Worcestershire Regulatory Services Noise & Dust Comments – 21.3.2022
CD9.11	Historic England Comments – 24.3.2022
CD9.12	County Footpath Officer Comments – 28.3.2022
CD9.13	North Worcestershire Water Management Comments – 29.3.2022
CD9.14	Severn Trent Water Ltd Comments – 30.3.2022
CD9.15	County Archaeologists Comments – 4.4.2022
CD9.16	County Public Health Comments – 6.4.2022
CD9.17	Earth Heritage Trust Comments – 7.4.2022
CD9.18	Further Earth Heritage Trust Comments – 8.4.2022

CD9.19	Further Severn Trent Water Ltd Comments – 8.4.2022
CD9.20	Worcestershire Wildlife Trust Comments – 11.4.2022
CD9.21	Environment Agency Comments – 12.4.2022
CD9.22	Environment Agency Comments on Habitat Regulations Assessment – 12.4.2022
CD9.23	County Highways Comments – 14.4.2022
CD9.24	District Cllr Rayner Comments – 15.4.2022
CD9.25	Worcestershire Regulatory Services Air Quality & Contaminated Land Comments – 19.4.2022
CD9.26	County Ecologist Comments – 20.4.2022
CD9.27	Wolverley & Cookley Parish Council Comments – 21.4.2022
CD9.28	Natural England Comments – 26.4.2022
CD9.29	Natural England Final Comments – 3.5.2022
CD9.30	Further County Ecology Comments – 11.5.2022

CD10 – Decision	
CD10.01	Committee Report
CD10.02	Decision Notice
CD10.03	Committee Meeting Minutes

CD11 – Policy Documents	
CD11.01	National Planning Policy Framework (NPPF)
CD11.02	National Planning Policy For Waste (NPPW)
CD11.03	Worcestershire Minerals Local Plan 2018-2036
CD11.04	Worcestershire Waste Core Strategy
CD11.05	Wyre Forest District Local Plan
CD11.06	Worcestershire Local Aggregate Assessment: Data covering the period up to 31/12/2021 (January 2023)

CD12 – Other Related Documents	
CD12.01	Profile of the UK Mineral Products Industry
CD12.02	Wyre Forest District Council Green Belt Review Analysis September 2016
CD12.03	Wyre Forest District Council Green Belt Part II May 2018
CD12.04	Worcestershire Landscape Character Assessment
CD12.05	Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466
CD12.06	R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council (Appellant) [2020]
CD12.07	Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government [2013] EWHC 2643 (Admin)
CD12.08	Decision Notice for 17/0205/OUTL
CD12.09	Construction Management Plan for 17/0205/OUTL (Ref: Drawing No. PL1000_A)
CD12.10	Decision Notice for 18/0163/FULL
CD12.11	Noise report for 18/0163/FULL (Ref: Wardell Armstrong “Miller Homes, Land off Stourbridge Road, Kidderminster, Noise Assessment Report”)
CD12.12	Submitted Masterplan for 22/0404/OUT (Ref: Illustrative Masterplan: Drawing No. 204116-AFL-Z1-ZZ-DR-A-20104 P3)
CD12.13	Noise report for 22/0404/OUT (Ref: Wood Group “Lea Castle Village, Kidderminster, Outline Planning Application, Site Suitability assessment – Noise” dated April 2022)
CD12.14	Health Impact Assessment Checklist Matrix for 22/0404/OUT (Ref: “HIA Matrix for Planning” dated May 2022)
CD12.15	BS 5228-1:2009+A1:2014 “Code of practice for noise and vibration control on construction and open sites – Part 1: Noise” Annex E
CD12.16	Worcestershire Regulatory Services (WRS) “Code of Best Practice for Demolition and Construction Sites” September 2020
CD12.17	Noise Policy Statement for England
CD12.18	Planning Practice Guidance Noise
CD12.19	Planning Practice Guidance Minerals
CD12.20	WRS “Noise Control Technical Guidance” 2013
CD12.21	WRS “Technical Guidance Note for Planning” (November 2022)
CD12.22	Decision Notice for 20/0217/FUL
CD12.23	Decision Notice for 18/0748/PIP
CD12.24	Institute of Air Quality Management (IAQM), IAQM Guidance on the Assessment of Mineral Dust Impacts for Planning, May 2016 (v1.1)

CD12.25	IAQM Guidance on the Assessment of Dust from Demolition and Construction, version 1.1, 2016
CD12.26	IAQM Land-Use Planning and Development Control: Planning for Air Quality, January 2017
CD12.27	Planning Practice Guidance Air Quality
CD12.28	Air Quality Assessment report for 22/0404/OUT (Ref: Wood "Lea Castle Village, Kidderminster, Outline Planning Application, Air Quality Assessment" dated April 2022
CD12.29	Wychavon DC v Secretary of State for Communities and Local Government & Butler [2008] EWCA Civ 692
CD12.30	Judgment, Mr Justice Burton Leicestershire County Council v Secretary of State for Communities and Local Government and UK Coal Mining Limited [2007] EWHC 1427 (Admin)
CD12.31	Air Quality Review: Lea Castle Farm, dated 2 March 2020
CD12.32	Planning Statement and Location Plan 19/000056/CM, Pinches Quarry
CD12.33	Planning Statement and Location Plan 22/000015/CM, Ripple East
CD12.34	Planning Appeal Decision 3300222, dated 06.02.23

CD13 – Appeal Documents	
CD13.01	Statement of Case of Worcestershire County Council
CD13.02	See CD12.02 (Appendix WCC1 – Wyre Forest District Council Green Belt Review Analysis September 2016)
CD13.03	See CD12.03 (Appendix WCC2 – Wyre Forest District Council Green Belt Part II May 2018)
CD13.04	See CD11.05 (Appendix WCC3 – Wyre Forest District Local Plan 2022)
CD13.05	Appendix WCC4 – Lea Castle Village Draft Framework Masterplan
CD13.06	See CD12.08 (Appendix WCC5 – Planning Decision Notice 17/0205/OUTL, Former Lea Castle Hospital)
CD13.07	Appendix WCC6 – Officers Report for Decision 17/0205/OUTL, Former Lea Castle Hospital
CD13.08	Appendix WCC7 – Phasing Plan, Former Lea Castle Hospital
CD13.09	Appendix WCC8 – Planning Decision Notice 19/0724/RESE, Former Lea Castle Hospital
CD13.10	Appendix WCC9 – Approved Layout Plan 19/0724/RESE, Former Lea Castle Hospital
CD13.11	Appendix WCC10 – Decision Notice, Location Plan and Layout Plan for 18/0163/FULL Land off Stourbridge Road

CD13.12	Appendix WCC11 – Decision Notice and Location Plan 19/000048/CM, Bow Farm Quarry
CD13.13	Appendix WCC12 – Decision Notices and Location Plans 20/000009/CM & 20/000015/CM, Ryall North Quarry
CD13.14	Appendix WCC13 – Decision Notice and Location Plan 21/000029/CM, Sandy Lane Quarry
CD13.15	Appendix WCC14 – Worcestershire County Council Sand and Gravel Landbank Position Statement
CD13.16	Appendix WCC15 – Photographs of Appeal Site from Key Views
CD13.17	See CD12.30 (Appendix WCC16 – Judgment, Mr Justice Burton [2007] EWHC 1427 (Admin))
CD13.18	See CD12.06 (Appendix WCC17 – Judgment, R (on the application of Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council (Appellant) [2020] UKSC 3)
CD13.19	See CD12.05 (Appendix WCC18 – Judgment, Turner v SoSCLG and East Dorset Council [2016] EWCA Civ 466)
CD13.20	Appendix WCC19 – Judgment, Timmins and A W Lymm Limited v Gedling BC [2014] EWHC 654 (Admin)
CD13.21	Appendix WCC20 – Planning Appeal Decision 3298447, Brown Westhead Park, dated 25/11/22
CD13.22	NRS Ltd (Appellant) Statement of Case
CD13.23	Statement of Case for Stop The Quarry Campaign – Rule 6 Party
CD13.24	Statement of Case for Stop The Quarry Campaign – Rule 6 Party – Planning Timeline
CD13.25	Statement of Common Ground – Signed 24.01.23 (NB Superseded by Revised Statement of Common Ground – Signed 15.02.23, see Core Document CD13.27)
CD13.26	Agreed Schedule of Conditions 30.01.2023
CD13.27	Revised Statement of Common Ground – Signed 15.02.23

CD14 – 4th Regulation 25 Submission	
CD14.01	PINS Regulation 25 Request – 13.01.2023
CD14.02	CMC Summary Note – 19.01.2023
CD14.03	Kidderminster Shuttle Press Notice – 02.02.2023
CD14.04	Lea Castle Farm Regulation 25 Submission, dated February 2023
CD14.05	Appendix A – Ecological Addendum Report and Biodiversity Net Gain Assessment

CD14.06	Appendix A – Biodiversity Net Gain Assessment 3.1
CD14.07	Appendix B – Noise Technical Note
CD14.08	Appendix C – Cumulative Impact Assessment
CD14.09	Appendix D – Revised Non-Technical Summary