Town and Country Planning Act 1990 – Section 78 Town and County Planning (Development Management Procedure) (England) Order 2015 Town and Country Planning (Inquiries Procedure) (England) Rules 2002

Appeal by NRS Aggregates Limited

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

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Against the refusal of planning permission by Worcestershire County Council for application 19/000053/CM - Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement.

REVISED STATEMENT OF COMMON GROUND between:
NRS Aggregates Limited & Worcestershire County Council

Planning Inspectorate Reference: APP/E1855/W/22/3310099

September 2024

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1. Introduction

1.1 This is a Statement of Common Ground (SoCG) made between the following parties:

- NRS Aggregates Limited ("the Appellant"); and
- Worcestershire County Council ("the Council").

1.2 This SoCG has been jointly prepared by the Appellant and Council, and sets out the factual background to the Appeal and those matters on which the parties agree. It also sets out the residual matters upon which the parties are not agreed.

1.3 This SoCG has been updated since the original signed submission of 24th January 2023; accounting for the additional submissions raised by the Appellant with regard to ecology, noise and cumulative impact as requested by the Environmental Services Department of the Planning Inspectorate under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

1.4 This SoCG has been revised further in respect to the re-determination of the appeal following the High Court Judgment issued on 16th November 2023 in which Mr Justice Eyre quashed the appeal decision.

1.5 As part of the re-determined appeal, the Appellant has requested the Inspector to consider an amended scheme, details of which are set out in section 3 of this SoCG.

2. The Original Appeal Proposals

2.1 The Appellant seeks full planning permission for proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement (Planning Application Reference: 19/000053/CM).

2.2 The proposed development is for sand and gravel extraction together with progressive restoration over approximately 26 hectares of land at Lea Castle Farm from two distinct areas – western and eastern areas. The western area measures approximately 12.5 hectares and the eastern area measures approximately 13.5 hectares, although the full extent of the red line application boundary is about 46 hectares.

2.3 Vehicular access to the application 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. This access would provide direct access to Wolverhampton Road (A449) towards Kidderminster and Stourbridge.

2.4 The Appeal proposal makes provision for the initial work to establish a new temporary access onto the B4189 Wolverley Road and Plant Site and subsequent phased extraction of sand and gravel and solid sand and its distribution. Extraction will be with concurrent with restoration of extracted areas utilising both in situ site soils and overburden and imported inert materials.

2.5 A total of circa 3 million saleable tonnes of sand and gravel will be extracted across an initial works period and five subsequent phases over the course of approximately 10 years. The mineral comprising circa 1.57 million tonnes of sand and gravel and 1.43 million tonnes of solid sand. The mineral will be transported to the plant site for processing utilising both dump trucks and a conveyor system. This scheme has been designed based on an annual processed tonnage of 300,000 saleable tonnes. This will provide a source of mineral to supply the building and construction industries with aggregates for products such as building sand, mortar sand, drainage materials and concreting sand and gravel supplying local and midland markets.

2.6 The plant site is proposed to comprise the following:

- The processing plant;
- Office and weighbridge and wheel wash;
- Stocks of product;

- 2 cylinders for a silt management/water cleansing system; and
- Staff and visitor car parking.

2.7 The footprint of the operational processing plant site area would measure approximately 3.8 hectares and would be located about 7 metres below existing ground levels (plant site located at approximately 63.5 metres Above Ordnance Datum (AOD) and existing ground level at approximately 70.5 metres AOD, and surrounded by a soil storage / visual screening bund, which would measure approximately 3 metres high to the south and north and between 4 to 5 metres to the west, with higher ground to the east (up to approximately 80 metres AOD). An overburden bund (overburden is unsaleable materials such as clay or un-saleable silty sand that lies above the mineral) would be located within the north of the processing plant site area measuring approximately 6 metres high.

2.8 The phased extraction of all mineral would take place above the natural water table. The development will also include the restoration and enhancement of the site/local landscape setting and green infrastructure. A new agricultural parkland will be designed with the provision of an agricultural parkland, provision of approximately 2.3km of new routes of public footpaths, cycleways, bridleways and pocket parks. Native woodland blocks will be re-established to reflect previous social historic land uses, hedges will be strengthened, and new acidic species rich meadow grassland will be created.

2.9 To aid in this process c. 60,000 m3 of inert material will be imported onto site per annum, c. 600,000 m^3 in total, to help create restoration formation levels onto which the original site soil profile will be placed. The Western Area of the site is proposed to be fully restored within 5 years of extraction commencing, with the Eastern Area restoration being fully completed within one year after the cessation of mineral extraction.

2.10 Land Aftercare and Management agreements will be established to ensure the restoration/enhancement measures are financially sustainable and permanent.

<u>Appeal Documents</u>

2.11 The planning application was submitted to the Council in January 2020.

2.12 The following documents were submitted to the Council in support of the planning application:

- Planning Statement (PS) (**CD1.02**);
- ES Volume 1 - Environmental Statement (ES) (**CD1.03**);

- ES Volume 2 – Technical Appendices (**CD1.04-1.16**);
    - Landscape and Visual Impact Assessment;
    - Ecological Impact Assessment;
    - Tree Condition Survey;
    - Noise Assessment;
    - Air Quality and Dust Assessment;
    - Transport Statement;
    - Agricultural Land Classification and Soil Resource Report;
    - Archaeological Desk Based Assessment;
    - Written Scheme of Investigation;
    - Hydrological and Hydrogeological Impact Assessment;
    - Leisure and Recreation Report; and,
    - Health Impact Assessment.
- ES Volume 3 – Planning Application Drawings and Forms (**CD1.17 – 1.32**); and
    - Location Plan KD.LCF.001;
    - Application Boundary / Other land in control of the applicant KD.LCF.014;
    - Current Situation KD.LCF.002;
    - Proposals Plan KD.LCF.013;
    - Operational Land KD.LCF.011;
    - Plant Site Layout – Plan & Elevations KD.LCF.021;
    - Plant Site – Conveyor running beneath PROW 62 6(B) KD.LCF.022;
    - Initial Works KD.LCF.003;
    - Phase 1 Working & Restoration KD.LCF.004;

  - Phase 2 Working & Restoration KD.LCF.005;
  - Phase 3 Working & Restoration KD.LCF.006;
  - Phase 4 Working & Restoration KD.LCF.007;
  - Phase 5 Working & Restoration KD.LCF.008;
  - Concept Restoration KD.LCF.010; and,
  - Restoration Sections KD.LCF.028.
- Non - Technical Summary. (CD1.33)

2.13 A Regulation 25 Request was made in June 2020 and additional information and clarification was provided on the following elements of the scheme (**CD3.02 to 3.23**):

- Water Environment;
- Biodiversity: Designated Sites;
- Biodiversity: Ancient Woodland, and Ancient and Veteran Trees;
- Biodiversity: Protected Species;
- Biodiversity: Restoration Scheme;
- Landscape;
- Best and Most Versatile Land and Soils;
- Aftercare;
- Materials for Restoration;
- Historic Environment;
- Highways;
- Public Rights of Way;
- Site Security; and,
- Drawings.

2.14 A second Regulation 25 Request was made in June 2021, seeking further clarification to points regarding comments from the County Landscape Officer, Hereford and Worcester Gardens Trust, Wyre Forest District Council's Tree Officer and the British Horse Society (**CD5.02 – 5.28**).

2.15 A third and final Regulation 25 Request was made in January 2022 (requesting the submission of a Habitats Regulations Assessment (**CD8.02 to 8.09**).

Consultees

2.16 The Committee Report (**CD10.01**) details that technical matters were resolved to the satisfaction of the following consultees on the application, subject to the addition of conditions and/or obligations where appropriate:

- Wyre Forest District Council Conservation Officer;
- Wyre Forest District Council Countryside and Parks Manager;
- Environment Agency;
- County Public Health Practitioner;
- Worcestershire Regulatory Services;
- County Highways Officer;
- County Footpath Officer;
- Ramblers Association and Malvern Hill District Footpath Society;
- Sustrans;
- Canal and River Trust;
- Severn Trent Water Limited;
- North Worcestershire Water Management;
- Historic England;
- County Archaeologist;
- Natural England;

- Worcestershire Wildlife Trust;
- County Ecologist;
- County Landscape Officer;
- Forestry Commission;
- Woodland Trust;
- Gardens Trust;
- Hereford & Worcester Gardens Trust;
- Hereford & Worcester Earth Heritage Trust;
- Hereford & Worcester Fire and Rescue Service;
- West Mercia Police;
- Western Power Distribution;
- ESP Utilities Group Ltd;
- Last Mile;
- Cadent Gas; and
- County Sustainability Officer.

2.17 The following consultees maintained objections to the application following the provision of further information under Regulation 25:

- Wolverley and Cookley Parish Council;
- Kidderminster Town Council.
- Wyre Forest District Council Planning Department;
- Wyre Forest District Council Tree Officer;
- The Campaign to Protect Rural Environment (CPRE).

2.17 The British Horse Society provided a consultation response prior to the original determination of the application that raised no objections to the proposal, subject to all footpaths within the site being upgraded to public bridleways, the legal status and

maintenance responsibility for the proposed additional routes is confirmed, and the surface and dimension standards on the upgraded and additional routes are as required for public bridleways. Having been notified of the original appeal, BHS provided an additional consultation response which amended their position, including the following, "*the BHS does not support the proposals but seeks to make constructive comments in this case to mitigate the impact on equestrian access should the planning application be granted".* The BHS have subsequently commented in respect to the notification of this appeal redetermination (comments dated 24 May 2024). They state that they have revisited the site to understand objections from local equestrians. They then set out comment on the proposal.

2.19 2,030 letters of representation were received during the application period, some of which are from the same respondents, and includes comments from a local residents' action group (Stop The Quarry Action Group), Wyre Forest Friends of the Earth, Kidderminster Civic Society and Civic Voice, Hagley Parish Council, Hurcott Village Management Ltd, Nightingales Residential Home, Wolverley CE Secondary School, Cookley Sebright Primary School, Heathfield Knoll School and First Steps Day Nursery, Severn Academies Educational Trust, National Education Union (NEU), neighbouring District Councillors Mary Rayner and Sarah Rook, and Bromsgrove District Councillor Steve Colella were received; 2 of which were letters of support, 4 of which are comments and 2,024 of which are objections.

3. The Revised Appeal Proposals

Introduction

3.1 The main amendments to the Appeal Scheme relate to the change to the proposed mineral processing plant to one of a smaller size, and with a reduced operational acoustic volume, compared to that proposed and assessed within the original application scheme. This has reduced the number, height and / or duration of some temporary soil storage / screening bunds and reduced some of the time when quarry operational land is required.

3.2 Apart from the above changes, all other elements of the proposed development remain the same as set out in paragraphs 2.2 – 2.10 above.

3.3 The main details of the revisions are as follows:

3.4 The use of the quieter operating plant of ~6.3m in height will be located a minimum of 7m below existing ground levels.

3.5 On a direct comparison between the originally submitted scheme and the revised scheme, the changes are:

- Reduction in Processing Plant height (from 12m to 6.3m);
- Reduction in Processing Plant footprint (reduced from 2,752m³ to 451m³); and
- Reduction in noise levels from the Processing Plant.

3.6 Quarry plant and infrastructure has evolved over the course of the 5-6 years since the proposed development was first conceived. The amended proposal would enable a change to the mitigation, and particularly to the height and duration of some of the bunds. The processing plant as originally proposed is be located a minimum of 7m below adjacent ground levels and contained, and as a result the new plant does not propose the same level of bund placement. The bund is proposed to be reduced in height to 3 metres apart from in the vicinity of the McDonald's Bungalow, where the bund (Bund 7) is proposed to be 4 metres between the property and the works in Phase 1 (extraction and infilling).

Outline of Changes

3.7 Table 1 below details the changes made to the previous inquiry scheme. Drawing No. 01-LEACF-INQ_001 illustrates the updated requirement for Temporary Soil Attenuation / Mitigation Bunds.

Table 1: Changes

Phase	Changes	Change Accommodated by:
Initial Works	Bund 3 is to be reduced in height from 6m to 3m in height.	The overburden material which will be no longer stored in Bund 3 will be placed on the internal 1in3 batter slopes within the plant site onto which topsoil will be placed. Land to be seeded and maintained.
	Bund 5, which was to be located within the northern area of the plant site for the full duration of the scheme (10 years) is now not required until Phase 4 / 5 and would be required for approximately 5 years.	This bund was proposed for overburden storage. This material will now be placed for long term temporary restoration around the internal batter slopes of the plant site. Topsoiled, seeded and maintained.
	Bund 6 is no longer required.	This placement area was required for topsoil. These soils are to be placed on the internal Plant Site batter slopes, seeded and maintained as long term temporary restoration.
Phase 1	Bund 7 which is to be located along the eastern boundary of Phase 1 is to be reduced in height from 6m to 3m.	The reduction in the volume of soils materials proposed to create this temporary bund will be achieved by the progressive stripping and restoration of Phase 1, leaving additional soils in place until direct placement of materials is proposed. Changes in the distribution of overburden and subsoils between Bund 7 and 8 has enabled this.
	Bund 11 is no longer proposed	The revised scheme proposes progressive soil stripping to allow direct placement of this material for restoration.
Phase 2	No Changes to Bund Profiles	
Phase 3	Bund 13 to be reduced in height from 4m to 3m.	The reduction in the volume of soils materials proposed to create this temporary bund will be achieved by the progressive stripping and restoration of Phase 3, leaving additional soils in place until direct placement of materials is proposed.
	Bund 14 to be reduced in height from 4m to 3m.	
	Bund 16 to be reduced in height from 4m to 3m.	
Phase 4	Bund 17 - No Change to Bund Profile.	
	Bund 18 will is no longer proposed	The bund is no longer proposed , and the former subsoil storage volumes are proposed to be stripped and directly placed for progressive restoration within Phase 4.
	Bund 19 is to be reduced in height from 4m to 3m.	Minor variations proposed to bund footprint representing the interchange between Bund 19 and the former Bund 18 (now removed) to allow for storage of soils at 3m in height.
	Bund 20 - No Change to Bund Profile.	Note. This bund is proposed to be formed on to the base of extraction of Phase 4.

No further bunds are proposed to be erected prior to Phase 5.		
Phase 5	No Change	

3.8 The above changes are illustrated on Updated Phased Working and Restoration Scheme Drawing Nos. 01-LEACF-INQ_004 to 01-LEACF-INQ_010. The associated soil bund storage and attenuation requirements being presented in Table 2.

Table 2: Soil Bund Storage & Attenuation Requirements

Bund	Description	Establishment Year	Soils Removed From Bund	Number of Years Soils in Bund
Bund 1	(3m high) – 3,300m³ - formed using Topsoil from the Initial Works area. Bund 1 is located to the south of the proposed plant site and north of South Lodge. The bund would remain in place throughout the duration of the development (c.10 to 11 years) when the soils will be used to restore Phase 5 / Final Restoration.	Year 1	Year 10-11	10-11 Years
Bund 2	(3m high) – 1,900m³ - formed using Subsoil from the Initial Works area. Bund 2 is located to the south east of the plant site and north of Broom Cottage. This bund would remain in place throughout the duration of the development (c.10 years) when the soils would be used to restore Phase 5 / Final Restoration.	Year 1	Year 10-11	10-11 Years
Bund 3 (reduced from 6m in height to 3m in height)	(3m high) – 14,481m³ - formed using 12,222m³ of Subsoil, and 2,259m³ of Overburden from the Initial Works area. Bund 3 is located immediately to the west of the plant site. The bund would remain in place throughout the duration of the development (c.10 to 11 years) when the soils will be used to restore Phase 5 / Final Restoration.	Year 1	Year 10-11	10-11 Years
Bund 4	(3m high) – 2,300m³ - formed using Topsoil from the Initial Works area. Bund 4 is located to the north east of the plant site. The bund would remain in place throughout the duration of the development (c.10 to 11 years) when the soils will be used to restore Phase 5 / Final Restoration.	Year 1	Year 10-11	10-11 Years
Bund 5 (Phase 4 & 5 only – previously in place from Year 1 for the full duration of	(6m high – within sunken plant site (~7m below ground level)) – 8,200m³ - formed of Overburden from the Plant Site Batter Strip. The overburden will be used for Final Restoration	Year 4.5	Year 10	6.5 Years

Bund	Description	Establishment Year	Soils Removed From Bund	Number of Years Soils in Bund
the proposed development)				
Bund 6 Removed	(0.3m high) – 5,100m³ - to be spread on Phase 4 to then restore Phase 5 / Final Restoration.	Not Required		
Bund 7 (reduced from 6m in height to 3m in height)	(3m high) – 12,270m³ - formed of subsoil from Phase 1 soil strip. Bund 7 is located to the west of the Bungalow. The bund will only be on place during Phase 1 mineral extraction and restoration period (c.1.5 years) when 10,000m³ of soils will be used to restore the Phase 1 Area and 2,270m³ subsequently used to restore Phase 2.	Year 1.5	Year 2.25	0.7 to 1 Year
Bund 8	(5m high) – 23,900m³ - formed of 17,698m³ of Subsoil and 6,202m³ of Overburden from Phase 1 soil strip. Bund 8 is located along the central western boundary of the site. The bund will be in place in full for the duration of Phase 1 and part in place for phase 2 and 3 as the extraction area progresses southwards (c.1.5 to 3.5 years) when the soils would be used to restore land in Phases 1 and 3.	Year 1.5	Year 3-4	1.5 to 3.5 Years
Bund 9	(3m high) – 2,915m³ - formed of Topsoil from Phase 1 soil strip. Bund 9 is located to the south and east of the Western Area's as dug mineral stockpile/ field hopper. The bund will be in place during the mineral extraction period of Phases 1, 2 and 3 (3 years) when soils would be used to restore the Phase 3 Area.	Year 1.5	Year 4.5	3 Years
Bund 10	(3m high) – 600m³ - formed of Topsoil from Phase 1 soil strip. Bund 10 is located to the east of the Western Area's as dug mineral stockpile/ filed hopper. The bund will be in place during the mineral extraction period of Phases 1, 2 and 3 (3 years) when soils would be used to restore the Phase 3 Area	Year 1.5	Year 4.5	3 Years
Bund 11 Removed	(3m high) – 12,100m³ - formed of Topsoil from the progressive Phase 1 soil strip. Bund 11 is located within the north of the Phase 1 void, post extraction. The bund will be in place during the mid and latter stags of Phase 1 extraction (~0.75 years) when the Topsoil will be used to restore Phase 1.	Not Required		
Bund 12	(3m high) – 7,200m³ - formed of Topsoil from Phase 2 soils strip. Bund 12 is located along the northern boundary of Phase 2. The bund will be in place during the mineral	Year 2.25	Year 3.25 to 4.25	1 to 2 Years

Bund	Description	Establishment Year	Soils Removed From Bund	Number of Years Soils in Bund
	extraction and restoration period of Phase 2 (c.1 to 2 years) when soils would be used to restore the Phase 2 Area.			
Bund 13 (reduced from 4m in height to 3m in height)	(3m high) – 5,020m³ - formed of subsoil from Phase 3 soils strip. Bund 13 is located north of the as dug mineral stockpile/field hopper. The bund will be in place during the mineral extraction and restoration period of Phase 3 (c.1.5 years) when soils would be used to restore the Phase 3 Area.	Year 3.25	Year 4.5	1.25 Years
Bund 14 (reduced from 4m in height to 3m in height)	(3m high) – 2,356m³ - formed of Subsoil from Phase 3 soils strip. Bund 14 is located north of the unoccupied South Lodge (west) property. The bund will be in place during the mineral extraction and restoration period of Phase 3 (c.1.5 years) when soils would be used to restore the Phase 3 Area.	Year 3.25	Year 4.5	1.25 Years
Bund 15	(3m high) – 3,410m³ - formed of Topsoil from Phase 3 soils strip. Bund 15 is located along the southern boundary of Phase 3. The bund will be place during the mineral extraction and restoration period of Phase 3 (c.1.5 - 2 years) when soils would be used to restore the Phase 3 Area.	Year 3.25	Year 4.75 to 5.25	1.5 to 2 Years
Bund 16 (reduced from 4m in height to 3m in height)	(3m high) – 3,958m³ - formed of Subsoil from Phase 3. Bund 16 is located along the western boundary of Phase 3. The bund would remain in place during the mineral extraction and restoration period of Phase 3 (~ 1.5 – 2 years) when soils will be used to restore 3.	Year 3.25	Year 4.75 to 5.25	1.5 to 2 Years
Bund 17	(3m high) – 17,200m³ - formed of Topsoil from Phase 4. Bund 17 is located along the north and eastern boundaries of Phase 4. The bund would remain in place until the end of Phase 5 +/ Final Restoration (~ 6.5 years).	Year 4.5	Year 10	5.5 Years
Bund 18 Removed	(4 - 5m high) – 19,200m³ - formed of Subsoil from Phase 4. Bund 18 is located along the eastern boundary of Phase 4. The bund would remain in place throughout the extraction period for Phases 4 and 5 (c.6 years) where upon the soils will be used to restore Phase 5.	Not Required		
Bund 19	(3m high) – 3,000m³ - formed of Topsoil from Plant Site Batter strip. Bund 19 is located along the south eastern boundary of	Year 4.5	Year 10	5.5 Years

Bund	Description	Establishment Year	Soils Removed From Bund	Number of Years Soils in Bund
(reduced from 4m in height to 3m in height)	Phase 4. The bund will be in place for approximately 6 years.			
Bund 20	(6m high) – 7,000m³ - formed of progressively stripped Overburden from Phase 4 soil strip. This bund is proposed to be formed on to the base of extraction of Phase 4. The bund will be in place for 3 to 6 years and will be used to restore Phase 5 / Final Restoration.	Year 4.5 to 6.25	Year 10	3.75 to 5.5 Years

Restoration

3.9 No change is proposed to the Concept Restoration Scheme in respect of levels or landform, save for the placement of a stretch of hedgerow / hedgerow trees adjacent to the eastern margin of Phase 4, which would now take place during the Initial Works Phase (Year 1) as opposed to as part of Final Works (Year 10). There would also be no changes in the length of mineral extraction, its cessation and the final restoration of the site.

3.10 The concept Restoration Scheme is illustrated on Drawing No. 01-LEACF-INQ_011 Concept Restoration – July 2024 (**CD15.23**).

Supporting Documents

3.11 The following documents were prepared in support of the revised proposals:

- Lea Castle Farm ES Addendum – July 2024 (**CD15.01**);
- ES Addendum Appendix A – Figure 4.1 – Photoviewpoint Locations (**CD15.02**);
- ES Addendum Appendix A – Figures 4.2-4.10 (**CD15.03**);
- ES Addendum Appendix A – Figures 4.11-4.16 (**CD15.04**);
- ES Addendum Appendix A – Figures 4.17-4.26 (**CD15.05**);
- ES Addendum Appendix A – Figures 4.27-4.39 (**CD15.06**);
- ES Addendum Appendix A – Figures 4.40-4.49 (**CD15.07**);
- ES Addendum Appendix A – Figures 4.50-4.61 (**CD15.08**);
- ES Addendum Appendix A – Figures 4.62-4.70 (**CD15.09**);
- ES Addendum Appendix A – Figure 4.71 Cumulative Sites and Green Belt (**CD15.10**);

- ES Addendum Appendix B.1 (**CD15.11**);
- ES Addendum Appendix B.2 (**CD15.12**);
- Lea Castle Farm Non-Technical Summary – July 2024 (**CD15.13**);
- Drawing Nos. E2370-SGA-001 and 002 – Original and Revised Plant Layout (**CD15.14**);
- Drawing No. 01-LEACF-INQ_001 – Updated Temporary Soil Attenuation Mitigation Bunds (**CD15.15**);
- Drawing No. 01-LEACF-INQ_004 – Initial Works (**CD15.16**);
- Drawing No. 01-LEACF-INQ_005 – Phase 1 – Working & Restoration (**CD15.17**);
- Drawing No. 01-LEACF-INQ_006 – Phase 2 – Working & Restoration (**CD15.18**);
- Drawing No. 01-LEACF-INQ_007 – Phase 3 – Working & Restoration (**CD15.19**);
- Drawing No. 01-LEACF-INQ_008 – Phase 4 – Working & Restoration (**CD15.20**);
- Drawing No. 01-LEACF-INQ_009 – Phase 5 – Working & Restoration (**CD15.21**);
- Drawing No. 01-LEACF-INQ_010 – Final Works (**CD15.22**);
- Drawing No. 01-LEACF-INQ_011 Concept Restoration – July 2024 (**CD15.23**); and
- Drawing No. 01-LEACF-INQ_012 – Plant Site (**CD15.24**);

Publicity and Consultation

3.12 The documents listed in paragraph 3.13 above were published on the Worcestershire County Council website for consultation from 5th August until 6th September 2024.

3.13 Additionally, two Public Consultation Events were held at Wolverley Memorial Hall on the 7th August and 21st August 2024 from 12:30 – 19:30. The public consultations allowed for members of the public and interested parties to view the updated plans and discuss queries with the Appellant directly.

4. Description of Appeal Site and Environs

4.1 The following site description is taken from paragraphs 84 and 85 of the Committee Report A full detailed site location can be found in the Planning Statement (**CD1.02**), Environmental Statement (**CD1.03**) and Committee Report (**CD10.01)**.

4.2 The application site measures approximately 46 hectares in area and is primarily comprised of agricultural land (farmed for a variety of crop including potatoes, maize, barley and sugar beet), within the historic parkland setting of Lea Castle. The site is located approximately 2.3 kilometres north of Kidderminster town centre, approximately 700 metres and 890 metres east of the villages of Wolverley and Fairfield, respectively, and approximately 370 metres south of the village of Cookley.

4.3 The application site is located immediately to the north of the Wolverley Road (B4189), immediately to the west of the Wolverhampton Road (A449), and approximately 40 metres east of a residential estate road of Brown Westhead Park (U13246).

4.4 The following description of development is taken from paragraphs 939 to 942 of the Committee Report.

4.5 The proposed development is seeking to extract approximately 3 million tonnes of sand and gravel from approximately 26 hectares (although the full extent of the red line application boundary is about 46 hectares) on land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster. Extraction would take place at a rate of approximately 300,000 tonnes of sand and gravel per annum. The depth of extraction would vary as the base of the mineral deposit undulates but is anticipated to be typically between about 5 to 7 metres in the western area and about 7 to 12 metres in the eastern area, with a maximum depth of 18 metres. 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.

4.6 The land would be progressively restored using site derived and imported inert material to agricultural parkland, public access and nature enhancement. The land would be worked in a total of 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.

4.7 To restore the site the applicant is proposing 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). Inert

materials include uncontaminated or treated subsoils, clays, overburden, as well as construction, demolition and excavation waste such as, but not limited to concrete, bricks, tiles, and ceramics that will not undergo any physical, chemical or biological transformations of significance and will not give rise to environmental pollution or risk harm to human health as a result of coming into contact with other matter.

4.8 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 established (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439 metres of hedgerows would be strengthened, approximately 579 metres of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees reinstating the historic avenue of trees along bridleways WC-625 and WC-626.

5. Reasons for Refusal

5.1 With regard to the Appeal Proposal, the decision notice issued by Worcestershire County Council on 27th May 2022 (**CD10.02**) states the reasons for refusal as follows:

1. *"Contrary to Policy 2 (Other Sand and Gravel Deposits) of the County of Hereford and Worcester Minerals Local Plan (Adopted April 1997) (Saved Policies);*
2. *Unacceptable impact on openness of the Green Belt;*
3. *Unacceptable impact on residential amenity and local schools;*
4. *Unacceptable impact on the local economy;*
5. *Loss of 2 Tree Preservation Order (TPO) trees;*
6. *Unsuitable bridleway next to the Wolverhampton Road (A449);*
7. *Unacceptable impact on highways;*
8. *Unacceptable general impact on environment and wildlife; and*
9. *Unacceptable impact on health of local population.".*

6. Development Plan

6.1 Section 38(6) Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.

Local Policy

6.2 The Planning and Compulsory Purchase Act 2004 defines the Development Plan as the Development Plan documents (taken as a whole) which have been adopted or approved in relation to that area.

6.3 The relevant statutory Development Plan for the appeal comprises:

- The Worcestershire Minerals Local Plan (adopted July 2022) (**CD11.03**);
- Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012) (**CD11.04**); and
- Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022) (**CD11.05**).

6.4 It is noted that Reason for Refusal 1 relates to Policy 2 of the County of Hereford and Worcester Minerals Local Plan (Adopted April 1997), however, since the adoption of the Minerals Local Plan in July 2022, this Policy is now superseded and therefore, is no longer of relevance to the appeal proposal.

6.5 The following policies are considered relevant to the Appeal:

- The Worcestershire Minerals Local Plan (adopted July 2022):
  - Policy MLP 1: Spatial Strategy;
  - Policy MLP 3: Strategic Location of Development – Areas of Search and Windfall Sites Within the Strategic Corridors;
  - Policy MLP 7: Green Infrastructure;
  - Policy MLP 11: North West Worcestershire Strategic Corridor;
  - Policy MLP 14: Scale of Sand and Gravel Provision;
  - Policy MLP 15: Delivering Steady and Adequate Supply of Sand and Gravel;
  - Policy MLP 26: Efficient Use of Resources;

- Policy MLP 27: Green Belt;
- Policy MLP 28: Amenity;
- Policy MLP 29: Air Quality;
- Policy MLP 30: Access and Recreation;
- Policy MLP 31: Biodiversity;
- Policy MLP 32: Historic Environment;
- Policy MLP 33: Landscape;
- Policy MLP 34: Soils;
- Policy MLP 35: Best and Most Versatile Agricultural Land;
- Policy MLP 36: Geodiversity;
- Policy MLP 37: Water Quality and Quantity;
- Policy MLP 38: Flooding;
- Policy MLP 39: Transport; and
- Policy MLP 40: Planning Obligations.

6.6 The Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012)**:**

- Policy WCS 1: Presumption in favour of sustainable development;
- Policy WCS 2: Enabling Waste Management Capacity;
- Policy WCS 5: Landfill and disposal;
- Policy WCS 6: Compatible land uses;
- Policy WCS 8: Site infrastructure and access;
- Policy WCS 9: Environmental assets;
- Policy WCS 10: Flood risk and water resources;
- Policy WCS 11: Sustainable design and operation of facilities;
- Policy WCS 12: Local characteristics;
- Policy WCS 13: Green Belt;

- Policy WCS 14: Amenity; and
- Policy WCS 15: Social and economic benefits.

- Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022):
  - Policy SP.2 - Locating New Development;
  - Policy SP.6 - Role of the existing villages and rural areas;
  - Policy SP.7 - Strategic Green Belt Review;
  - Policy SP.16 - Health and Wellbeing;
  - Policy SP.20 - Quality Design and Local Distinctiveness
  - Policy SP.21 - Historic Environment;
  - Policy SP.22 - Landscape Character;
  - Policy SP.23 - Protecting and Enhancing Biodiversity;
  - Policy SP.24 - Protecting and Enhancing Geodiversity;
  - Policy SP.27 - Transport and Accessibility in Wyre Forest;
  - Policy SP.28 - Green Infrastructure;
  - Policy SP.29 - Water Conservation and Efficiency;
  - Policy SP.30 - Sewerage Systems and Water Quality;
  - Policy SP.31 - Flood Risk Management;
  - Policy SP.32 - Sustainable Drainage Systems (SuDS);
  - Policy SP.33 - Pollution and Land Instability;
  - Policy SP.34 - Minerals;
  - Policy SP.35 - Waste;
  - Policy SP.37 - Renewable and Low Carbon Energy;
  - Policy DM.10 - Rural Employment;
  - Policy DM.22 - Safeguarding the Green Belt;
  - Policy DM.23 - Safeguarding the Historic Environment;
  - Policy DM.24 - Quality Design and Local Distinctiveness;

- Policy DM.26 - Landscaping and Boundary Treatment;
- Policy DM.28 - Wyre Forest Waterways; and
- Policy DM.32 - Agricultural Land Quality.

Other Material Considerations

6.7 Worcestershire Local Aggregates Assessment Data covering the period up to 31/12/2022 (January 2023)

6.8 National Planning Policy Framework (NPPF)

- The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied, and is a material consideration in the determination of this Appeal. Of particular relevance to this Appeal are the following Sections of the NPPF:
  - Achieving sustainable development;
  - Building a strong, competitive economy;
  - Promoting sustainable transport;
  - Protecting Green Belt land;
  - Conserving and Enhancing the Natural Environment; and
  - Facilitating the sustainable use of minerals.

6.9 National Planning Policy for Waste (NPPW) (2014).

6.10 National Planning Practice Guidance (PPG).

6.11 Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Minerals Dust. Impacts for Planning' (2016).

6.12 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

6.13 National Planning Policy Framework - Consultation on Draft (July – September 2024)

- The draft NPPF document includes amendments / additions to Green Belt policy by introducing 'Grey Belt'. This is defined within the NPPF as "For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the green belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that

make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework), but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt)."

6.14 On the 30th July 2024, Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government Angela Rayner, made a Written Ministerial Statement entitled "Building the homes we need". The statement is organised into seven sections – Restoring and Raising Housing Targets, Building in the Right Places, Moving to Strategic Planning, Delivering More Affordable Housing, Building Infrastructure to Grow the Economy, Supportive Local Planning & First Step of a Bigger Plan. Relevant to the Appeal Proposals are:

- I *"Green Belt designed for England in the middle of the twentieth century now must be updated for an England in the middle of the twenty first. The Green Belt today accounts for more land in England than land that is developed – around 13 per cent compared to 10 per cent."*

7. Planning History

7.1 Historically, the site formed a part of the c.220ha grounds of Lea Castle, which was built around 1762 and was demolished in 1945.

7.2 Planning permission was granted at Lea Castle Farm in May 1997 (WFDC ref.WF/0648/96) for the conversion of barns into eight dwellings, the erection of garages, construction of driveways, parking areas and new sewage treatment plant along with alterations to the existing access. In July 2001 planning permission was granted (WFDC ref. WF/0437/01) for the change of use of barns to 11 dwellings with the associated erection of garages, construction of hardstandings and new access drive. The permission was implemented and the dwellings are known as Castle Barns.

7.3 A planning application for the construction of two golf courses at Lea Castle Farm was first submitted to WFDC in March 1999. The application included the proposed construction of one 18-hole and one 9-hole golf courses, the erection of a clubhouse with ancillary facilities, the construction of a new vehicular access onto Castle Road, new driveways and parking facilities, a golf practice area, and the diversion of a public footpath. The application (WFDC ref. WF/0260/99) was refused at Planning Committee on 14th March 2000 and a subsequent appeal was withdrawn. However, an application (WFDC ref. WF/0211/01) was permitted by Committee on 17th July 2001 for 'construction of two new golf courses (18 hole and 9 hole), new clubhouse and ancillary facilities, new access to Castle Road, Cookley, new driveways and parking facilities, golf practice area and diversion of public footpaths'.

7.4 The planning permission for the construction of golf courses at the application site was not implemented. The July 2001 permission (WF/0437/01) remains the most recent significant permission issued for the application site.

7.5 In terms of mineral development, the site was promoted within the Third Stage Consultation of the now adopted Worcestershire Minerals Local Plan (14th July 2022). The site was assessed and considered appropriate to be allocated 'Preferred Area Status' under the title of Land North of Wolverley Road (submission reference DO26-2397). Although the Third Stage Consultation on the Minerals Local Plan included "specific site" and "preferred area" site allocations, this approach was not carried forward in the Fourth Stage or the Publication Version stage. The emerging Worcestershire Mineral Site Allocations DPD is likely to be go out for public consultation in Summer 2023.

8. Matters on which parties agree

8.1 The following matters are agreed between the parties:

Sand and Gravel Need and Landbank / Inert Waste Need

8.2 Please refer to the separate Minerals and Waste SoCG.

Net Gain for Biodiversity

8.3 Please refer to the separate Biodiversity Net Gain Statement of Common Ground.

Sustainability

8.4 When looking at the supply of mineral within a county a balanced spread of geographical location supply sources is important in promoting sustainable development. Aggregates being bulky in nature, costly to transport / typically only transported about 30 miles from source. The closest county sand and gravel quarry to Kidderminster is Clifton Quarry, located circa. 24 miles away. It is agreed that the Appeal Proposal would contribute to the geographical spread of mineral supply sources.

8.5 The revised Appeal Proposal does not result in changes to the statement on Sustainability agreed above.

Ecology

8.6 It is agreed that a suite of ecological protection and enhancement works were submitted as part of the planning application. Natural England, Worcestershire Wildlife Trust and the County Ecologist had no objections to the proposal put forward subject to appropriately worded conditions.

8.7 The revised Appeal Proposals do not result in changes to the statement on Ecology agreed above.

8.8 As such, save for conditions, the parties agree that impact on ecology is not a matter in dispute between the Appellant and the MPA, albeit that the weight to be applied to BNG as a benefit of the proposal is a matter for proofs of evidence.

Noise

8.9 It is agreed that a Noise Impact Assessment (**CD1.07**) was submitted in support of the planning application. Worcestershire Regulatory Services, the statutory consultees with regard to noise impacts, were satisfied that the Noise report confirms conditions to be within

national guidance relating to noise and that the measured noise levels calculated were robust in isolation. Worcestershire Regulatory Services are satisfied that there are no adverse noise impacts associated with the proposed workings in isolation.

8.10 The revised Appeal Proposal does not result in changes to the statement on Noise agreed above.

Landscape and Visual

8.11 It is agreed that a Landscape and Visual Impact Assessment (**CD1.04**) was submitted as part of the planning application. The County Landscape Officer has no objections to the proposal, subject to appropriate conditions requiring the implementation of a CEMP and LEMP, with a long-term aftercare period to cover a period of at least 10 years. Hereford & Worcester Gardens Trust also hold no objection to the proposed development; and the Head of Planning and Transport Planning concurred, on balance, with the findings of the LVIA.

Soils and Agricultural Land

8.12 It is agreed that an Agricultural Land Classification and Soil Resource Report (**CD1.10**) was submitted in support of the planning application, Natural England were consulted and raised no objection to the proposal in this regard. Furthermore, the Head of Planning and Transport Planning considers that subject to appropriate conditions being imposed relating to soil handling and placement, and a detailed aftercare scheme, then the objectives of the NPPF in respect of soils and their use in the restoration of BMV agricultural land would be met.

8.13 The revised Appeal Proposal does not result in changes to the statement on Soils and Agricultural Land agreed above.

8.14 As such, save for conditions, the parties agree that this is not a matter in dispute between the Appellant and the MPA.

Archaeology and Cultural Heritage

8.15 It is agreed that a programme of archaeological work was submitted in support of this application. Historic England offered no comment other than to consult the County Conservation and Archaeologists. The County Archaeologist and the Wyre Forest District Council Conservation Officer has no objection to the proposal subject to conditions for a programme of archaeological work, including a Written Scheme of Investigation, provision made for analysis, publication and dissemination of results and archive deposition, and a scheme for the reinstatement of the historic boundary wall. Hereford & Worcester Earth Heritage Trust also do no object to the proposals.

8.16 The revised Appeal Proposal does not result in changes to the statement on Archaeology and Cultural Heritage agreed above.

8.17 As such, the parties agree that save for conditions, this is not a matter in dispute between the Appellant and the MPA.

Water Environment

8.18 Natural England have no objection to the proposal subject to the imposition of conditions regarding groundwater monitoring scheme and maintenance of the proposed soakaways in perpetuity. The North Worcestershire Water Management also raise no objection to the proposal subject to the imposition of conditions requiring a detailed surface water drainage scheme and associated maintenance scheme. The Environment Agency recommend the imposition of a condition requiring groundwater, surface water and quality monitoring scheme. Severn Trent Water Limited have no objection subject to condition requiring groundwater monitoring as requested by the Environment Agency.

8.19 The revised Appeal Proposal does not result in changes to the statement on Water Environment agreed above.

8.20 As such, save for conditions, the parties agree that this is not a matter in dispute between the Appellant and the MPA.

Restoration

8.21 It is agreed that a Concept Restoration Plan (**CD5.11)** was submitted in support of the planning application and an updated Concept Restoration Plan (**CD15.23**) has been submitted in support of the revised Appeal Proposal.

Climate Change

8.22 It is agreed that Climate Change impacts have been considered within the Environmental Statement (**CD1.03**), particularly in terms of hydrology, flood risk and ecology. The County Sustainability Officer was consulted but offered no comments on the proposal.

8.23 A Greenhouse Gas Emissions Assessment has been undertaken and submitted in support of the Revised Appeal Proposals as part of the Environmental Statement Addendum (**CD15.01**).

Alternatives

8.24 It is agreed that the approach taken to alternatives within the planning application is acceptable. Although the CPRE objected to the planning application, suggesting alternative

mineral extraction sites, the Head of Planning and Transport Planning did not consider this an exceptional case where alternative schemes are relevant, particularly as there can be no confidence that an alternative scheme is a realistic prospect. Furthermore, the Head of Planning and Transport Planning notes the support of Policy MLP 1 which seeks to direct mineral extraction within 'Strategic Corridors'; and Policy MLP 3 concerning the strategic location of development within 'Areas of Search', for both of which Lea Castle Farm is sited.

8.25 An updated Alternatives section has been considered and produced within the Environmental Statement Addendum (**CD15.01**).

Cumulative Impacts

8.26 It is agreed that Cumulative Impacts have been considered as part of the planning application within the Environmental Statement (**CD1.03**).

8.27 It is agreed that the additional Cumulative Impact Assessment, prepared by the Appellant under the Regulation 25 request in February 2023, has provided sufficient information to determine that the proposal, in combination with other development, would not cause amenity harm with regard to noise or dust impacts to residential dwellings or Heathfield Knoll School and First Steps Nursery, subject to the implementation of proposed mitigation measures.

8.28 An updated Cumulative Impact Assessment has been undertaken as part of the Environmental Statement Addendum **(CD15.01**), and provides sufficient information to determine that the revised Appeal proposals in combination with other development, would not cause amenity harm with regard to noise or dust impacts to residential dwellings or Heathfield Knoll School and First Steps Nursery, subject to the implementation of proposed mitigation measures.

9. Matters on which parties disagree and are to be defended by Council

9.1 With reference to reason for refusal 2: Green Belt, the parties disagree on the following matters:

- The spatial and visual impact of the two development proposals on the openness of the Green Belt.
- The cumulative impact of the two development proposals in conjunction with adjacent development at Lea Castle Village as secured by consent 17/0205/OUTL and Wyre Forest Local Plan Policy SP.LCV1 on the purposes of the appeal site as Green Belt land across the lifespan of development.
- The appropriateness of the two development proposals in Framework terms and the requirement for consideration of very special circumstances taking into consideration Framework paragraphs 152, 153 and 155.
- The conflict of the two development proposals with purpose a) unrestricted sprawl and c) encroachment of the Green Belt as defined by paragraph 143 of the Framework.
- The weight provided to individual material considerations sought to be considered in balance; including the weight prescribed to the contribution of the site to minerals supply, the economic benefits from job creation, biodiversity net gain benefit and the benefit applied to the restoration scheme.
- The two development proposals accordance with Policy MLP 27 of the Minerals Local Plan, Policy WCS 13 of the Waste Core Strategy, Policy DM.22 of the Wyre Forest District Council Local Plan and relevant chapters of the Framework.

9.2 With reference to reason for refusal 3: impact on residential amenity and schools, the parties disagree on the following matters:

- The impact on visual outlook of residential properties by the proposed siting of bunds. However, in isolation, having since addressed cumulative impacts, and due to the limited timeframes of the siting of the bunds, such impact is not determined to be sufficiently harmful as to maintain the defence of reason for refusal 3.

10. Reasons for refusal to not be defended by the Council within the Inquiry

- In the period since the decision notice was issued by the Council, the Worcestershire Minerals Local Plan has been adopted and the County of Hereford and Worcester Minerals Local Plan has been superseded. Reason for refusal 1 refers specifically to Policy 2 of the superseded Local Plan. No policy within the adopted Minerals Local Plan provides consistency with Policy 2, and as such reason for refusal 1 is not defended by the Council within the appeal.

- Having regard to the extant Development Plan and material considerations, Officers concluded that the proposal would not have detrimental impact on the local economy. The Council will therefore not be defending reason for refusal 4 ("unacceptable impact on the local economy") within the appeal.

- Officers concluded that, subject to the implementation of appropriate planning conditions, the loss of 2 No. TPO trees would be sufficiently mitigated for. The Council will therefore not be defending reason for refusal 5 ("*Loss of 2 Tree Preservation Order (TPO) trees*") within the appeal.

- Officers concluded that, on balance, the proposal would not offer harm to the quality of bridleways located within and adjacent to the site. The Council will therefore not be defending reason for refusal 6 ("unsuitable bridleway next to the Wolverhampton Road (A449)") within the appeal.

- Both Officers and Worcestershire County Council Highways Authority concluded that, subject to the implementation of appropriate planning conditions, the proposal would not offer harm to the highways network. The Council will therefore not be defending reason for refusal 7 ("unacceptable impact on highways)") within the appeal.

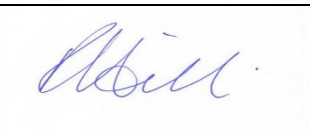
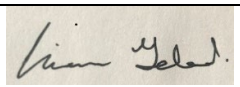
- Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on the environment and wildlife. Having regard to the extant Development Plan and material considerations, the Council will not be defending reason for refusal 8 ("*unacceptable general impact on environment and wildlife*") within the appeal.

- Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on the health of the local population. The Council will therefore not be defending reason for refusal 9 ("unacceptable impact on health of local population") within the appeal.

- Having regard to the additional technical evidence prepared by the Appellant under the Regulation 25 request of January 2023, the Council conclude that the Appellant has provided sufficient information to determine that the proposal, in combination with other development, would not provide cause harm with regard to noise or dust impacts to residential dwellings or Heathfield Knoll School and First Steps Nursery, subject to the implementation of proposed mitigation measures. The Council will therefore now not be defending reason for refusal 3 ("*Unacceptable impact on residential amenity and local schools")* within the appeal.

11. Planning Conditions

11.1 The parties agree that should the appeal be allowed, and planning permission be granted conditions should be imposed, which will be subject to further discussions and agreement.:

Signed on behalf of Minerals Planning Authority		**Signed on behalf of Appellant**	
Organisation	Worcestershire County Council	Organisation	Heatons
Signature		Signature	
Name	Rachel Hill	Name	Liam Toland
Qualification	BEng (Hons)	Qualification	BA (Hons), MSc, MRTPI
Date	13.09.2024	Date	12.09.2024