

WORCESTERSHIRE COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL

Appeal by NRS Aggregates Ltd against the refusal of planning permission by **Worcestershire County Council** for:

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

on land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire.

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

County Council Reference: 19/000053/CM

Summary Proof of Evidence of Christopher Whitehouse BSc (Hons)
MRICS, RICS Accredited Expert Witness

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1.0 Introduction

1.1 Having regard to both the above and the Council's pursued reason for refusal, my proof of evidence will consider the following main issues of this appeal, which for the Council are:

1. The effects of the proposed development on the openness of the Green Belt and upon the purposes of including land within it, and whether the development conflicts with policy to protect the Green Belt.
2. In addition to the potential harm to the Green Belt, what, if any, other harm is there?
3. The need for sand and gravel, having regard to likely future demand for, and supply of, these minerals, along with the availability of inert material for restoration.
4. Whether the identified harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposed development, is clearly outweighed by other considerations, so as to amount to the very special circumstances (VSC).

2.0 The effects of the proposed development on the openness of the Green Belt and upon the purposes of including land within it, and whether the development conflicts with policy to protect the Green Belt.

2.1 Paragraph 152 of the National Planning Policy Framework (NPPF) states that *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"*. In considering applications, substantial weight should be given to any harm to the Green Belt. The Framework adds that *"very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations"*.

2.2 Paragraph 155 of the NPPF indicates that certain forms of development are 'not inappropriate' in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including, at a) minerals extraction and, at b) engineering operations. In other words, mineral extraction remains inappropriate development in the Green Belt unless it can be demonstrated that the proposal both preserves the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt.

2.3 Policy MLP 27 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. Policy WCS 13 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. I conclude that Green Belt policies within the Development Plan, as they apply to the proposal, are consistent with the Framework.

2.4 Mineral extraction may not be inappropriate in the Green Belt as long as it preserves openness in accordance with paragraph 155 of the NPPF. It therefore comes down to the specific details of the proposals; determining the “tipping point” beyond minerals excavation that would preserve openness and not conflict with the purposes of including land within the Green Belt, depends on the particular circumstances of the proposal as a matter of fact and degree.

2.5 The Appellant brings forward two optional schemes within the Inquiry and I have been instructed to assess both.

2.6 *Option 1*

Insofar as I conclude that the tipping point of development has been exceeded by the harm caused to the openness of the Green Belt, I conclude that the appeal scheme is inappropriate development. Furthermore, the development would fail to check the unrestricted sprawl of built-up areas and would not assist in safeguarding the countryside from encroachment, and so would provide conflict with two purposes of the Green Belt, both to a significant level. I conclude that the harm to the Green Belt arising from these matters attract substantial weight against the proposal and that the proposal would be in conflict with policies MLP 27, WCS 13 DM.22 and the Framework.

2.7 *Option 2*

Insofar as I conclude that the tipping point of development has also been exceeded by the harm caused by the development to the openness of the Green Belt within the Option 2 scheme, I conclude that the appeal scheme is inappropriate development. Furthermore, the development would fail to check the unrestricted sprawl of built-up areas and would not assist in safeguarding the countryside from encroachment, and so would provide conflict with two purposes of the Green Belt, both to a significant level. I conclude that the harm to the Green Belt arising from these matters attract

substantial weight against the proposal and that the proposal would be in conflict with policies MLP 27, WCS 13 DM.22 and the Framework.

3.0 In addition to the potential harm to the Green Belt, what, if any, other harm is there?

3.1 Within the Officers Report, the Council determined that the proposal would result in less than substantial harm to the significance of the designated heritage asset of North Lodges and Gateway to Lea Castle, a Grade II listed building. Having undertaken a site visit and viewed the context of the heritage asset with the surrounding area, I agree with the Council's conclusions.

3.2 I conclude that in applying Paragraph 208 of the Framework, the less than substantial harm to the settings of the designated heritage asset is outweighed by the public benefits arising from the proposed scheme.

4.0 The need for sand and gravel, having regard to likely future demand for, and supply of, these minerals, along with the availability of inert material for restoration.

4.1 Policy MLP 14 provides that WCC will seek to maintain a landbank of at least 7 years throughout the plan period and sufficient capacity of sand and gravel will be maintained to "at least meet the guideline in the most recent Local Aggregate Assessment". Based on this production guideline and the stock of permitted reserves of 5.06 million tonnes, Worcestershire had a landbank of 7.59 years on 31 December 2022. Between 31 December 2022 and 31 December 2023, the Council did not grant any new permissions for mineral extraction. I conclude that, based on the information available, it is reasonable to assume production guideline for sand and gravel set out in the LAA, at 0.667 million tonnes continued in 2023. On this basis, the landbank of permitted reserves on 31st December 2023 would be approximately 4.393 million tonnes of sand and gravel, equating to a landbank of 6.59 years.

4.2 I conclude that the approval of the appeal scheme would increase the landbank by 4.5 years and as such exceed the requirements of MLP 14, in a circumstance where the Council's current landbank falls short of the required 7 years. Paragraph 217 of the Framework makes clear that *great weight* should

be given to the benefit of minerals extraction and Paragraph 219 requires the Council to maintain a landbank of 7 years for sand and gravel. The proposal directly accords with both requirements.

4.3 The supply issue is clearly less acute than at the time of determination of the application and this does, in my opinion, create a distinction from the weight that would have applied at the point of determination of it. The appeal scheme would accord with policies MLP 3, MLP 14 and MLP 15 of the MLP and this, in conjunction with the *great weight* that is required to be applied by paragraph 217 of the Framework amounts, in my opinion, to *significant* beneficial weight in support of the proposal.

4.4 Secondly, I conclude that there is sufficient evidence before the Inquiry to determine that the Appellant would have sufficient supply of inert waste across the development period to meet restoration objectives and as such fulfil the requirements of a planning permission in this regard.

5.0 Whether Very Special Circumstances Exist

5.1 I have concluded that the appeal proposal is inappropriate development in the Green Belt. In accordance with the Framework, VSCs need to be shown to exist if inappropriate development is to be approved.

5.2 From their Statement of Case, it is the Appellants opinion that VSCs exist from the combined benefits of:

- The need for the release of new mineral reserves.
- The sustainability of the location with regard to the logistical marketplace, the spread of supply throughout the County and the potential inert waste that could be transported to site from surrounding residential development sites;
- The economic benefit of providing jobs, providing direct and indirect economic contributions to the local economy and to the economy through levy and taxation; and
- Restoration benefits from the site, including a significant increase in net biodiversity gain.

5.3 I ascribe significant weight to the need for minerals supply. Furthermore, I ascribe moderate beneficial weight to the sustainability of the appeal site in the marketplace, to the creation of jobs and to

biodiversity net gain. I ascribe *no weight* to the potential for the site to obtain inert waste from sites adjacent to it, nor to proposed taxation benefits.

6.0 Planning Balance and Conclusions

6.1 A summary of my considerations of VSCs and the weighting prescribed to them are presented within the table below:

Summary of my considerations

Harm	Weight	Factor promoted as VSC	Weight
Inappropriate development, significant harm to spatial openness, significant harm to visual openness; conflict with GB purposes a) and c)	Substantial Weight	The need for the release of new minerals reserves	Significant weight
		Marketplace sustainability	Moderate weight
		Economic Benefits	Moderate weight
		Biodiversity Benefits	Moderate weight
		Local inert waste catchment	No weight
		Taxation Benefits	No weight

6.2 Whilst I acknowledge the benefits of the proposal, I do not consider that they clearly outweigh the substantial harm that would be caused to the Green Belt, including to its openness and its purposes. I therefore conclude that the proposal is contrary to the aforementioned policies of the Development Plan, together with Paragraphs 152 and 153 of the Framework.

6.3 I therefore conclude that the Inspector should be invited to dismiss the appeal.