

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

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

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

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

**Application reference: 19/000053/CM**

**Appellant's name: NRS Aggregates Ltd**

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

**November 2024**

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## 1.0 Qualification

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

## 2.0 Introduction

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

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

2.2 Document referred to

- NPPF
- Worcestershire Minerals Local Plan 2018 - 2036
- Wyre Forest District Local Plan 2016 - 2036
- MLP SA
- Worcestershire Landscape Character Assessment
- Worcestershire Historic Landscape Characterization
- The Worcestershire Landscape Character Assessment Supplementary Guidance August 2012
- Lee Castle EIA Scoping Opinion
- North Lodge Listing
- Letter Of Objection From STQAG
- 22/0404/OUT Outline application Lea Castle Drive Lea Castle Kidderminster Worcestershire

2.3 Legal cases referred to

- R (Samuel Smith Old Brewery (Tadcaster) and Oxton Farm) v North Yorkshire County Council and Darrington Quarries Ltd [2018] EWCA
- Attorney General ex rel Sutcliffe and others v Calderdale BC 1982
- R (Hampshire County Council) v Secretary of State for Environment, Food and Rural Affairs [2021] EWCA Civ 398 Date: 18th March 2021
- Debenhams PLC V Westminster CC 1987

2.4 Appeal Decisions referred to

- Land At Ware Park, Wadesmill Road, Hertford APP/M1900/W/17/3178839  
In respect of which the Secretary of State attached weight to operational development in respect of openness. And artificial landscape.
- Land at Hatfield Aerodrome, off Hatfield Road Appeal Ref: APP/M1900/W/21/3278097  
In respect of the weight afforded need.
- Pave Lane Quarry, Pave Lane, Newport, Shropshire TF10 9AX Appeal Ref: APP/C3240/W/17/3167459  
In respect of landscape impact.
- Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire Appeal Ref: APP/E1855/W/22/3310099

## 3.0 Previous Appeal Decision

- 3.1 As is well known the previous appeal was dismissed by the Inspector and subsequently successfully challenged in the High Court. As is also known the Appeal decision was struck down due to an adjudged legal error which considered there was a legal requirement to provide Biodiversity Net Gain (BNG). The Inspector reduced the weight attached to the benefit of providing BNG due to his belief there was a legal requirement for such provision. The Inspector went on to say that there was a fine balance between the harm and any benefits.
- 3.2 The Inspector said,

“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.”
- 3.3 Clearly, the weight which would have been attached had the Inspector not applied a discount due to policy and legislative requirement cannot be known however it would have been nominally higher than moderate.
- 3.4 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. There was, and is, therefore a Development Plan policy requirement for BNG. This would indicate that full weight should not be given to the BNG provision.
- 3.5 It can also not be known how fine the balance was between the harm by reason of inappropriateness as a consequence of the loss of openness and other considerations.

## 4.0 Policy

### National policy with NPPF (December 2023)

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

4.2 In respect of non-Green Belt matters the NPPF says at paragraph 217,

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

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

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

### The Development Plan

4.3 As we are aware planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

- Worcestershire Minerals Local Plan 2018 – 2036
- Waste Core Strategy for Worcestershire 2012 – 2027
- Wyre Forest District Local Plan 2016 - 2036

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

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

### Worcestershire Minerals Local Plan

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

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

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

- 3.5 In my view whilst meeting the first objective the appeal proposal does not meet the remaining objectives.
- 3.6 On the Key Diagram the appeal site lies within the North Worcestershire Strategic Corridor and Area of Search for Solid Sand and Gravel and Silica Sand.
- 3.7 Policies need to be considered sequentially or as a whole; it would be incorrect to look at one single policy to claim support of a proposal from the Minerals Local Plan (MLP). Proposals need to meet the policies of the plan as a whole. The starting point being whether sites are allocated in the Mineral Site Allocations Development Plan Document.
- 3.8 Policy MLP 2: Strategic Location of Development – Specific Sites and Preferred Areas states that specific sites and preferred areas will be allocated in a separate Mineral Site Allocations Development Plan Document and defined on the Policies Map. Planning permission will be granted for new mineral developments and extensions to extant sites within allocated specific sites. Planning permission will be granted for new mineral developments and extensions to extant sites within allocated preferred areas where certain criteria apply. The starting point therefore is for sites or preferred areas to be allocated in the development plan.
- 3.9 Paragraph 4.16 -4.19 states,
- “Policy MLP 2 sets a policy preference for mineral development in specific site and preferred area allocations within the five strategic corridors. Within this, it sets a hierarchy which prioritises development on mineral allocations with the highest levels of certainty (specific sites) and enables development on mineral allocations which have less certainty (preferred areas) where any of the criteria in part b of the policy are met.*
- A Mineral Site Allocations Development Plan Document (DPD) will be prepared to allocate specific sites and preferred areas in order to help facilitate mineral development and provide certainty for communities and developers about where mineral development is likely to be considered acceptable during the life of the Minerals Local Plan, subject to the policies in other parts of the Development Plan (including other policies within the Minerals Local Plan) being satisfactorily addressed. The level of certainty that mineral development will come forward will be high for specific sites, and fairly high for preferred areas.*
- Specific sites provide certainty on when and where mineral development is most likely to take place. Sites will only be allocated as specific sites where viable resources are known to exist, landowners are supportive of minerals development and proposals are considered likely to be acceptable in planning terms after being considered against a set of site-selection criteria.*
- However, the fact that a site has been allocated will not override the need to ensure that the development proposed is sustainable. Detailed planning applications will be required and will be considered on their individual merits against the policies of the Development Plan (including other policies within the Minerals Local Plan).” (Emphasis added)*
- 3.10 The final paragraph of MLP2 clearly sets out that an allocation in the MLP will not automatically lead to the grant of planning consent. In this case the MPA have rejected an application on the basis the proposal was not sustainable and considering its individual merits.
- 3.11 Policy MLP 3: Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors is part of that hierarchical approach. Planning permission will be

granted for new mineral developments within allocated areas of search where there is a shortfall in supply as demonstrated by Part C. Part C provides a shortfall in supply will be considered to exist where there is a shortfall in extant sites and allocated specific sites and/or preferred areas to meet the scale of provision required over the life of the plan.

- 3.12 As is common with strategic plans the MLP sets out a broad framework but relies on a detailed assessment of sites in a Sites Allocation Plan to allocate specific land where planning permission would be suitable.
- 3.13 In addition to being allocated or demonstrating a need beyond land that is allocated in the Site Allocations Plan, windfall sites need to meet a number of criteria in further MLP policies.
- 3.14 Policy MLP 7: Green Infrastructure. Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and enhance networks of green infrastructure throughout the life of the development.
- 3.15 The proposal fails to meet this objective *throughout the life of the development*.
- 3.16 The delivery of multiple benefits is required taking account of the local economic, social and environmental context of the site; including opportunities to protect and enhance inherent landscape character; conserve, restore and enhance ecological networks and deliver net gains for biodiversity; conserve and enhance heritage assets and their setting; enhance the rights of way network.
- 3.17 My evidence and that of others will show how the proposal fails to meet these positive benefits.
- 3.18 Policy MLP 11 is concerned with the North West Worcestershire Strategic Corridor containing the appeal site.
- 3.19 Planning permission will be granted for mineral development within the North West Worcestershire Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.
- 3.20 The development fails to contribute towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.
- 3.21 The proposed development will be required to demonstrate how, throughout its lifetime, the site will contribute to delivery of green infrastructure priorities including to conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines.
- 3.22 Throughout its lifetime, the development fails to contribute to delivery of green infrastructure priorities including to conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines.
- 3.23 Proposals should demonstrate how the development will deliver these priorities at *each stage of the site's life*, and why the proposed scheme is considered to be the optimal practicable solution. Where site-specific circumstances and/or other policies in the development plan limit the ability to deliver one or more of the priorities, this should be clearly set out in the assessment.
- 3.24 Policy MLP 26: Efficient Use of Resources says that mineral development will need to take account of the ability to provide a stable and appropriate landform for beneficial after-use;



the ability to deliver high-quality restoration at the earliest opportunity; the appropriateness of importing fill materials on to site, and the likely availability of suitable fill materials; the need to protect and enhance inherent landscape character; and the need to manage or mitigate impacts on the built, historic, natural and water environment and amenity.

- 3.25 I believe the development fails to provide a stable and appropriate landform for beneficial after-use; fails to deliver high-quality restoration; has failed to demonstrate the appropriateness of importing fill materials on to site, and the likely availability of suitable fill materials; fails to protect and enhance inherent landscape character; and fails to manage or mitigate impacts on the built, historic, natural environment and amenity.

Waste Core Strategy for Worcestershire 2012 – 2027 (WCS)

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.

- 3.26 It is my view that the development fails to protect and enhance heritage assets and their settings

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.

- 3.27 It is my view that the development fails to demonstrate 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

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.

- 3.28 Clearly the development has been shown to constitute inappropriate development, with no very special circumstances.

Mineral Site Allocations Development Plan Document (DPD)

- 3.29 Worcestershire County Council's adopted Minerals Local Plan commits to the preparation of a separate Mineral Site Allocations Development Plan Document (DPD). Once completed the DPD will allocate specific sites and preferred areas for mineral development to support the delivery of the Worcestershire Minerals Local Plan and provide greater certainty about where mineral development will take place. It will be used alongside the Minerals Local Plan to determine planning applications.

- 3.30 A 'Call for Sites' ran from 16 January 2020 until 13 March 2020. Following consultation on a proposed methodology for site allocations in 2018/19, the site options are now being

assessed. A range of technical evidence is being gathered to inform a “Preferred Options” draft of the DPD. This draft will show how each site performs against site selection criteria and will set out draft policy wording.

- 3.31 The “Preferred Options” draft will be accompanied by a Sustainability Appraisal (SA) that will consider the potential economic, social, and environmental effects of the DPD. It will inform the DPD by helping to maximise its benefits and avoid or minimise potential adverse effects. An SA Scoping Report, the first stage of the SA process, sets the framework against which the DPD will be appraised.
- 3.32 Consultation on the SA Scoping Report took place from 28 June 2021 to 9 August 2021. The current Local Development Scheme (2022) came into effect on 1 July 2022. The LDS states a Publication (Regulation 19 & 20) plan is anticipated Q3-Q4 2024, a Submission (Regulation 22) plan is anticipated Q1-Q2 2025.
- 3.33 NPPF advises on the weight to be attached to emerging plans; no weight can be attached to the draft allocations plan.
- 3.34 In respect of the appeal site, we know the local mineral planning authority’s views on the suitability of the site for sand and gravel production at this time. The local mineral planning authority raised significant concerns regarding the site’s suitability for mineral production at this time in refusing the application.
- 3.35 It would be unreasonable for the local mineral planning authority to reverse that position unless there were material changes in circumstances to justify this. Were the plan to allocate the appeal site it would be legally unreasonable and any decision to adopt it would be challenged in the courts.
- 3.36 Furthermore, given the appeal sites poor sustainability score it should not be allocated.

#### Wyre Forest Local Plan

- 3.37 The Wyre Forest Local Plan (WFDLP) was adopted in April 2022. The whole of the appeal site is within the Green Belt and within the villages of Cookley and parts of Wolverley. The policies map shows the Lea Castle Strategic Allocation site extended to the Wolverhampton Road opposite the appeal site.
- 3.38 The site is allocated for development of a sustainable village of high quality design. The development of Lee Castle village of around 1400 new dwellings (600 of these already have planning permission), provision of around 7 hectares of employment development, around 2 hectares for a 420-place primary school and creation of village centre
- 3.39 The Policies Map shows the conservation area along the canal to the West of the appeal site.
- 3.40 Relevant policies include

#### Policy SP .2 - locating new development

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

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

- 3.41 It is my view that the development fails to *safeguard and enhance* the open countryside; maintain the openness of the Green Belt; and protect from development areas that are sensitive because of their landscape, heritage assets or biodiversity

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

The Rural Economy

- a. The rural economy will be supported by promoting development which contributes to rural employment sectors as well as encouraging appropriate farm diversification schemes.
- b. Development proposals will not be permitted where they would be likely to have direct and significant impact on the District's best and most versatile agricultural land.
- c. Historic farmsteads will be protected from inappropriate development (for details refer to Policy DM.23 and Policy DM.29).
- 3.42 The development will harm the existing rural economy through loss of farming jobs, caused by loss of farmland as well as other local jobs.

Policy SP.16 - Health and Wellbeing

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

- 3.43 The development does not help minimise negative health impacts and maximise opportunities to ensure that people in Wyre Forest District lead healthy, active lifestyles and experience a high quality of life. Inspector Normington only found development would not likely result in any significant adverse noise impacts for those residing or visiting the site area.
- 3.44 Inspector Normington also found in the absence of any compelling technical evidence to the contrary, the appeal proposals would not result in unacceptable levels of dust on the amenity of nearby existing or proposed sensitive land uses.
- 3.45 Inspector Normington found dust suppression measures would serve to minimise the risk of any RCS emissions from the site. He found no compelling evidence that clearly demonstrates that the proposed development would pose a potential significant risk to the local population due to RCS.
- 3.46 Inspector Normington found concluded that the proposal would be unlikely to have a significant adverse effect on public health with reference to air quality.
- 3.47 Overall, Inspector Normington was 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.
- 3.48 With respect, absence of significant adverse harm is not the policy test nor is it any comfort to local people. The policy test is to minimise negative health impacts and maximise opportunities for healthy, active lifestyles and experience a high quality of life.

Policy SP.21 - Historic Environment

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

a. Designated heritage assets, i.e. listed buildings, conservation areas, scheduled monuments, registered parks and gardens and registered battlefields; also non-designated heritage assets (including those identified on the District's Local Heritage List or for which a Historic Environment Record exists), and their settings.

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

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

d. Archaeological remains of all periods.

e. Historic transportation networks and infrastructure including roads and track-ways, canals, river navigations, railways and their associated industries, and their settings. Wyre Forest District 78 Wyre Forest District Local Plan (2016-2036) - Adopted April 2022 10 A Unique Place.

i. The rural villages within the District, including their associated Conservation Areas and buildings, along with their settings and historic views to and from the surrounding countryside.

3.49 In my view the development does not protect, conserve and enhance all heritage assets and their settings.

#### Conclusion

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

3.51 Inspector Normington found, 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. It is my view, as set out above, the development is in conflict with further policies seeking a positive outcome from developments not just lacking significant harm.

## 5.0 Sustainability

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

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

### SA Objective 1: Landscape

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

4.3 SSSG17 scores "Significant negative impact"

4.4 SSSG10 scores "Significant negative impact"

### SA Objective 2: Biodiversity and Geodiversity

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

4.5 SSSG17 scores "Significant negative impact"

4.6 SSSG10 scores "Significant negative impact"

### SA Objective 3: Cultural heritage, architecture and archaeology

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

4.7 SSSG17 scores "Significant negative impact"

4.8 SSSG10 scores "Significant negative impact"

### SA Objective 4: Material assets

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

4.9 SSSG17 scores "Minor negative impact"

4.10 SSSG10 scores "Minor negative impact"

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

### SA Objective 5: Natural resources

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

4.12 SSSG17 scores "Significant negative impact"

4.13 SSSG10 scores "Significant negative impact"

#### SA Objective 6: Climate change and energy

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

- 4.14 There is no indication the appeal proposals are suggesting anything which adapts to the impacts of climate change. Or promotes energy efficiency and energy generated from renewable energy and low-carbon sources.

5.1 The appeal site should score "Significant negative impact".

#### SA Objective 7: Flooding

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

5.2 SSSG17 scores "Negligible or no impact"

5.3 SSSG10 scores "Negligible or no impact"

#### SA Objective 8: Access to services

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

5.4 SSSG17 scores "Significant negative impact"

5.5 SSSG10 scores "Significant negative impact"

#### SA Objective 9: Health and amenity

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

5.6 SSSG17 scores "Significant negative impact"

5.7 SSSG10 scores "Significant negative impact"

#### SA Objective 10: Waste

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

5.8 SSSG17 scores "Negligible or no impact"

5.9 SSSG10 scores "Negligible or no impact"

#### SA Objective 11: Traffic and transport

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

5.10 The SA states (para 3.55),

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

- 5.11 There is no provision in the appeal proposal for water based transport and the appeal site does not have a riparian frontage.
- 5.12 The appeal site should score Significant negative impact.  
SA Objective 12: Growth with prosperity for all  
This SA objective is to "Develop a knowledge-driven economy, the infrastructure and skills base whilst ensuring all share the benefits, urban and rural".
- 5.13 The SA (para 3.60) states,  
*"Negative effects from minerals development on growth and infrastructure are also possible if the location of minerals sites prevents or hinders other types of economic development."*
- 5.14 The appeal site should score Significant negative impact.  
SA Objective 13: Provision of housing  
This SA objective is to "Provide decent affordable housing for all, of the right quality and tenure and for local needs, in clean, safe and pleasant local environments".
- 5.15 The SA (para 3.64) states,  
*"The delivery of housing could also be compromised if minerals development takes place too close to potential housing sites."*
- 5.16 The HCA sponsored Lea Castle Hospital site will be compromised by the appeal proposal. The appeal proposal should score Significant negative impact. This view is supported by WFDC in their consultation response to the application (CD4.38)  
SA Objective 14: Participation by all  
This SA objective is to "Provide opportunities for communities to participate in and contribute to decisions that affect their neighbourhood and quality of life, encouraging pride and social responsibility in the local community".
- 5.17 The community has sought to communicate and participate in and contribute to decisions affecting their neighbourhood and quality of life. The community, through STQC, their representations, the Parish Council, the District Council and County Council have objected to this proposal.
- 5.18 Over ruling this democratic process would score Significant negative impact.  
SA Objective 15: Technology, innovation and inward investment  
This SA objective is to "Promote and support the development of new technologies, of high value and low impact, especially resource efficient technologies and environmental technology initiatives".
- 5.19 The appeal proposals do not purport to use any innovative technology. The appeal proposal should score Significant negative impact  
SA Objective 16: Population (skills and education)  
This SA objective is to "Raise the skills levels and qualifications of the workforce".
- 5.20 The minimal level of employment is likely to transfer from other sites and will not raise skill levels or qualifications in the workforce. The proposals will damage the local tourist and service economy and destroy the equestrian centre leading to a loss of skills.
- 5.21 The appeal proposal should score Significant negative impact

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

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

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

Conclusion

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



## 6.0 Landscape and Visual

- 4.15 Current assessment of the appeal site is rolling hills in landscaped parkland. Forming the grounds of an 18th century Mansion built by one of the richest, most powerful industrialist of the age. The site sits close to the main sources of income along the Stour River.
- 4.16 Broom Covert lies to the east of the main entrance driveway. This has a height of around 85 metres and falls easterly to Wolverhampton Road at around 55 metres, and westerly towards the sports ground at 65 metres. The hill is a prominent and significant landscape feature
- 4.17 The site is contained by the historic walls and the listed entrance gatehouses. The site contains a number of historic specimen trees planted as part of the parkland design. This is an important, attractive and valued landscape.
- 4.18 The Parkland estate site is contained by historic walls and listed entrance gatehouses. The framework of its landscape park survives. The site contains a number of historic specimen trees planted as part of the Parkland design. This is an important, attractive, and valued landscape.
- 4.19 The appeal site is within the Sandstone Estatelands Character Area. These are open, rolling landscapes characterised by an ordered pattern of large, arable fields, straight roads and estate plantations. A key characteristic is the open rolling landscape, the appeal site is a stunning example of the landscape character. The proposal will completely destroy this character and introduce an alien landscape.
- 4.20 The proposal seeks to remove 1.7 million cubic metres of material replace this with 0.6 million cubic metres of material. The difference is the quantifiable impact on the landscape. The existing and proposed cross sections illustrate the incredible impact the development will have on the landscape. Replacing what is rolling countryside with a desolate flat crater. This will resemble the land on the west of Wolverley Road, at Court Quarry.
- Minerals Local Plan (MLP)
- 4.21 Policy MLP 33 is concerned with Landscape and that planning permission will be granted where it is demonstrated that the proposed mineral development throughout its lifetime in cumulation with other development will **conserve and enhance the character and distinctiveness** of the landscape.
- 4.22 The proposed development will **not have an unacceptable adverse effect on the inherent landscape character**. The benefits of the proposal will be balanced against the significance of any impacts where the proposed development is likely to:
- i. result in significant change to the **key characteristics of the landscape identified in the Worcestershire Landscape Character Assessment and Worcestershire Historic Landscape Characterisation**; or
  - ii. **introduce landscape features that conflict with, or dilute, the inherent landscape character** of the area.
- 4.23 MLP paragraph 515 states,
- “Landscapes evolve over time as a result of natural and cultural processes including changes in patterns of land use, habitat networks and built development. Personal appreciation of the landscape and how individuals and communities relate to or make use of it are also important in defining sense of place and distinctiveness of an area. Landscape character is

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

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

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

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

#### Environment Agency

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

#### Parish Council

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

#### Worcestershire Countryside Access Mapping Officer

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

#### CPRE

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

#### Worcestershire County Council Ecology

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

#### Worcestershire Count Council Landscape

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

#### Worcestershire Wildlife Trust

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

#### Wyre Forest Countryside Manager

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

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

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

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

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

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

4.30 The Inspectors reasoning at IR384 was,

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

#### Conclusion

- 4.31 Significantly the policies of the development plan in the MLP is that development must conserve and preserve the character and distinctiveness of sites.
- 4.32 The essential character of the site is of rolling parkland estate crowned by Broom Covert. The proposal changes that fundamentally to a flat featureless plateau. This does not conserve or preserve the character and distinctiveness of current site.

## 7.0 Heritage

- 7.1 Lea Castle was built with the profit of the local iron industry by Edward Knight in 1762. The Cookley iron works were founded in the late 1600s and the town quickly became the centre of the local iron and tinplate industry. The mill at Cookley was originally a corn mill built in 1706, it and another mill at Wolverley built in 1669, had been taken over by the new industry. These two mills were leased by the Knight family, and by 1750 they had purchased them outright.
- 7.2 Edward Knight owned the mills for 30 years until his death in 1780. It was Edward, with the wealth generated from the iron works who had Lea Castle built in the then fashionable neo-Gothic style in 1762. Situated on an outcrop, the house was a large brick build castellated mansion which was described in 1848 as, “a noble mansion surrounded by 550 acres of land enriched with plantations of oak and other timber.”
- 7.3 The house was auctioned in 1933, but by 1939 it was dilapidated. Lea Castle was demolished in 1945. Today the South lodge and gatehouse on Wolverley Rd, North lodge and gatehouse on Castle Rd, the estate wall, tree lined driveway and remnants of the castle survive. These features elevate the site above the ordinary.
- 7.4 North lodges and gateway off Lea Castle, Castle Rd are specifically listed as Grade II (list entry number 1296589) first listed on the 18th of March 1987. The listed lodge itself is of special architectural and historic interest considered to be of national importance and therefore worth protecting. Both gate houses are included in the local list for their architectural and historic value.
- 7.5 Objects, structures, and buildings affixed to a listed building or within its curtilage may also be protected by listing. In general any pre 1948 structure that formed part of the land and was in the curtilage of the principle listed building at the date of listing and is ancillary to the principle building is considered to be part of the listing.
- 7.6 The courts have considered the precise extent of curtilage on many occasions; the key considerations are the physical layout of the building, the ownership past and present, and the function of the building and space, past and present.
- 7.7 The courts have said there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building
  - the physical layout of the listed building and the structure
  - the ownership both historically and at the date of listing and
  - the use and function of the relevant building they gained both historically and at the date of the listing
- 7.8 These tests were first proposed in the Attorney General ex rel Sutcliffe and others v Calderdale BC 1982 (as accepted by Debenhams PLC V Westminster CC 1987) and more latterly upheld in R (Hampshire County Council) v Secretary of State for Environment, Food and Rural Affairs [2021] EWCA Civ 398, March 2021
- 7.9 Historic England advice is that in general any structure attached to a building, such as adjoining buildings or walls, will also be covered by the listing if the structure was ancillary to the principle building at the date of the listing. Even extensions or alterations to listed buildings made after listing from part of the listing building and are subject to the protection regime.

7.10 Policy MLP 32 Historic Environment states,

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

(emphasis added)

7.11 The policy goes on to say;

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

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

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

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

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

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

7.12 Paragraph 2.142 explains,

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

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

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

a. Designated heritage assets; i.e. listed buildings, conservation areas, scheduled monuments, registered parks and gardens and registered battlefields; also non-designated heritage assets (including those identified on the District's Local Heritage List or for which a Historic Environment Record exists), and their settings.

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

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

d. Archaeological remains of all periods.

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

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

#### Worcestershire Archive & Archaeology Service

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

#### Parish Council

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

#### Wolverley and Cookley Historical Society

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

- There are well used public footpaths along the driveways and between the areas enjoyed by local people and walking groups.
- The paths are shown as early as on the tithe map of 1837.
- Medieval documents refer to a settlement at The Lea. Although its exact position is vague it was undoubtedly in the area of Lea Castle.

#### CPRE

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

#### Historic England

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

#### Worcestershire County Council Landscape

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

#### Wyre Forest Conservation

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



- Lea Castle Farm Wolverley WSM30493 comprises a partially extant C18 farmstead with buildings now converted to residential use.
- Originally the brick pierced barns were used for threshing.
- 1 and 2 South Lodges ref: LLWC55 and LLWC56 Lodge Houses originally serving Lea Castle (which was pulled down in 1945). Dating to c.1818, both Lodges served as the entrance from Wolverley. Square building, red brick construction, with castellated parapet to roof, buttresses to each corner, hood moulds to windows and doors.
- Extension to rear.
- These are included on the Local list for their architectural and historic values contributing to a medium significance.
- The adjacent Staffordshire and Worcestershire Canal Conservation Area within its woodland setting. This is a site highly sensitive to development due to its intact rural parkland character, topography and impact on mature woodland which form the setting for the Conservation Area.

### Conclusion

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

## 8.0 Restoration

- 8.1 To be clear, the removal of 1.7 million cubic metres of material and the potential landfill of 0.6 million cubic metres is not restoration. The levelling of the site of what is rolling parkland is not restoration. The destruction of ancient specimen trees and replanting of saplings is not restoration.
- 8.2 We have experience of the after care of this type of development on the former Court Farm Quarry on the opposite side of Wolverley Road. This is an alien landscape, out of keeping with the existing landscape form. It has the appearance of developed land which has detracted from the openness of the Green Belt.
- 8.3 Other witnesses will describe the appropriateness of the land fill operation.
- 8.4 Inspector Normington found,  
“ it is not possible for me to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m<sup>3</sup> 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.”

## 9.0 Green Belt Matters

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

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

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

#### Conflict with purposes

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

#### Loss of Openness

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

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

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

#### Other Harm

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

#### Minerals Local Plan

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

- 9.26 Where any aspect of the proposed development is inappropriate in the Green Belt; where it would not preserve the Green Belt's openness and would conflict with the purposes of including land within the Green Belt, it will only be supported where very special circumstances exist that mean the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. (Paragraph 6.21)
- 9.27 Where the proposed development requires the impact of Green Belt openness to be assessed, the judgement will be based on the circumstances of the case (paragraph 6.24). A range of matters may need to be taken into account by the Mineral Planning Authority when assessing the impact on openness, including spatial and visual aspects, the duration of the development and its remediability, and the degree of activity likely to be generated. As minerals development is a temporary use of land, this may be relevant to the impact on openness.
- 9.28 The MLP follows the Courts decision on spatial and visual aspects of openness, which is also raised in Planning Practice Guidance. The MLP also identifies other aspects of openness which the Courts have identified as relevant including the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation.
- 9.29 While the application refers to an extraction period of 10 years, this can only be determined by levels of demand, viability and feasibility, the additional remediation will be dependent on the availability of suitable fill material, something known to be problematic. The duration of the development, in some cases a lifetime, has a negative impact on openness. Remediation refers to returning the land to its original state or to an equivalent state of openness. We know this will not occur and the original gently rolling hills will be replaced by a featureless crater. The significant negative impact on openness will be permanent. The relative degree of activity will also significantly reduce the openness of the site including the access works, vehicle movements, conveyors under and over the site.
- 4.1 In respect of openness Inspector Normington found,
- “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.” (ID 59)
  - “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.” (ID 60)
  - “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.” (ID 78)

- “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.” (ID 79)
- “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.” (ID 80)
- “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 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.” (ID 82)
- “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.” (ID 87 emphasis added)

#### Conclusion on GB matters

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

## 10.0 Alternatives

- 10.1 One of the commitments established by IEMA in its EIA Quality Mark scheme is that practitioners commit to ensuring that EIAs refer to any development alternatives considered during the process and that the influences of such alternatives on the scheme are transparently set out. Part II of Sch.4 of the EIA Regulations requires the applicant to provide,  
  
“an outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects”.
- 10.2 No alternatives in terms of other more suitable sites have been considered, this is the role of the emerging site allocations plan. No realistic alternatives in respect of the form of development has been considered, in particular so that true “restoration” is achieved to the openness of the site as it is now.
- 10.3 The consideration of alternatives is a key aspect of EIA and is essential in the case of Green Belt development. For development to be acceptable in the Green Belt no alternative non-Green belt sites must be demonstrated and no less harmful Green Belt sites need to be assessed.
- 10.4 The dismissal of alternatives is cursory and not persuasive.



## 11.0 Cumulative Impact

11.1 In respect of cumulative impact and in particular the cumulative impact from Lea Castle Hospital re-development and impact on Lea Castle Hospital Development Inspector Normington said,

*“[The appeal site] 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.*

*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.”*

11.2 The wider Lea Castle Hospital site has been removed from the Green Belt and allocated for development under Policy SP.LCV1 and 2 the Wyre Forest Local Plan. The Lea Castle Village allocation is for a total of 1,400 new homes, around 7ha of employment land, a local centre including retail and a flexible community space to include C2 uses, land for a 420 place primary school, new playing pitch, open space and recreation including allotments or a community orchard, and associated infrastructure. There are 600 dwellings to be delivered on the core hospital site, in accordance with Outline planning permission 17/0205/OUTL for up to 600 dwellings (C3), up to 3,350sqm of Class 81 employment uses, 150sqm of Class A1/A3/D1 uses (local shop/cafe/community space), public open space, ecological mitigation, drainage works, infrastructure and ancillary works.

11.3 At the previous Inquiry there was discussion regarding the mitigation provided by the tree belt to the north of the permitted first phase of development and intervening area of open land.

11.4 Outline application 22/0404/OUT was validated on Friday 13 May 2022,

*“Outline application to include up to 800 dwellings (C3), around 7ha for employment uses comprising a mix of E (g) uses, a two form entry primary school/education uses (F1), retail floor space (E), community uses (F1/F2) and care home provision (C2) as part of a mixed use village centre (E/F1/F2), three vehicular accesses from Wolverhampton Road, two vehicular accesses from Stourbridge Road, one vehicular access from Lea Castle Drive, public open space including play provision, outdoor sport/recreation, orchard, additional green infrastructure, sustainable drainage systems and the provision of associated infrastructure and ancillary works. Detailed approval is sought for the six means of access, with all other matters reserved for future determination”.*

11.5 The application site extends to approximately 57ha to the east of the appeal site and comprises of three parcels of land surrounding the core hospital site, split approximately as follows:

- Northern parcel: 11.5ha;
- Western parcel 24.5ha; and
- Eastern parcel: 21ha.

11.6 The development of the remaining 800 dwellings allocated in the adopted local plan will further erode the extent of green open land in this area putting further importance on the

remaining area of Green Belt between the settlements. Given the spatial position, and the contained nature of the appeal which emphasises its importance in fulfilling Green Belt purposes the site plays an increasingly extremely important Green Belt function given further encroachment which should be given considerable weight.

## 12.0 Need and Landbank

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

*“There is evidence that available reserves of sand and gravel in Hertfordshire have been in decline since 2010. At the time of the Inquiry the current landbank was 5.9 years. This is a significant shortfall given that the NPPF requires planning for a steady and adequate supply of aggregate by maintaining a landbank of at least seven years for sand and gravel. The PPG provides that low landbanks may be an indicator that suitable applications should be permitted as a matter of importance to ensure the steady and adequate supply of aggregates.”*

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

- 12.6 PPG Mineral states,

*“What are landbanks of aggregate mineral reserves?*

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

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

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

*There is no maximum landbank level and each application for minerals extraction must be considered on its own merits regardless of the length of the landbank. However, where a landbank is below the minimum level this may be seen as a strong indicator of urgent need.”*

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

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

#### Conclusion

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

## 13.0 Conclusion

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

- 13.17 No realistic alternatives in respect of the form of development have been considered, in particular so that true “restoration” is achieved to the openness of the site as it is now.
- 13.18 The dismissal of alternatives is cursory and not persuasive.
- 13.19 I fail to see how the appellant can be concerned that dismissal of the appeal will sterilise the resource.
- 13.20 A supply of minerals below the target does not mean consent should be given. Each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves.
- 13.21 The supply of minerals cannot be at any cost as was found in the previous appeal decision..
- 13.22 The lack of supply against target is not so acute that rash, premature decisions need to be made while a development plan is in preparation.
- 13.23 The appellant’s conclusions on individual impacts are laughable in their naivety and bias. To suggest that in each case there is no more than minimal impact is to make the EIA process redundant. Clearly the decision maker has not been presented with evidence on environmental effects of such reliability for a decision to be made in favour of the proposal.
- 13.24 Impact on the historic landscape and the Green Belt will be significant. Any benefits from the proposal do not clearly outweigh this harm and other harm. No special circumstances exist and this inappropriate development should not therefore be approved.
- 13.25 It was found previously that,
- “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.”
- 13.26 Applying greater weight to the provision of BNG, which is now statutorily required for new schemes, would not clearly outweigh the substantial weight which should be given to any harm to the Green Belt.
- 13.27 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