

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 of

"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

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1.0 Introduction

1.1 This Statement of Case relates to an appeal lodged by NRS Aggregates Ltd (“the Appellants”) to the Planning Inspectorate (“PINS”) on 7th November 2022 (PINS reference APP/E1855/W/22/3310099). The Statement sets out the case for Worcestershire County Council as the Minerals Planning Authority (“WCC” or “the Council”) in respect of the appeal which is made following the decision of the Council

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2.0 Relevant Planning Policy

2.1 A detailed description of the relevant planning policies are provided within the Statement of Common Ground.

2.2 Reference to the following statutory Development Plan documents will be made within the Council's proof of evidence:

- The Worcestershire Minerals Local Plan (adopted July 2022);
- Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012); and
- Wyre Forest District Local Plan 2016 – 2036 (Adopted 9.2 (o)-1.2.3 (2)(6)3D (t)10.9.7 (D)-5.6 (is)-1(6)6 3()10

3.0 Reasons for refusal

3.1 The application, now the subject of this appeal, was considered by WCC Planning and Regulatory Committee on 24 May 2022. The Committee considered an Officers report, the appellants planning application reporting and the submissions made by interested parties, and resolved to refuse planning permission for the following reasons:

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

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Council, the Minerals Local Plan has been adopted and the County of Hereford and Worcester Minerals Local Plan has been superseded. Reason for refusal 1 refers specifically to Policy 2 of the superseded Local Plan.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

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

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

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

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

4.0 The County Council's Case: Green Belt

4.1 Policy WCS 13 of the adopted Worcestershire Waste Core Strategy permits waste management facilities in areas designated as Green Belt where the proposal does not constitute inappropriate development, or where very special circumstances exist.

4.2 Minerals Local Plan Policy MLP 27 states that:

a) minerals extraction will be supported where *"a level of technical assessment appropriate to the proposed development demonstrates 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"*

b) *"Where any aspect of the proposed development is inappropriate* in the Green Belt - including mineral extraction and/or engineering operations that cannot satisfy the tests in part (a) above - it will only be supported where a level of technical assessment demonstrates that very special circumstances exist that mean the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations".*

*Inappropriateness set by Paras 147-151 of NPPF.

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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".

- 4.6 The Council's evidence will demonstrate that there is consistency between the Development Plan and the Framework, in expecting

purposes of the Green Belt.

- 4.13 The appeal site is defined as directly contributing to the prevention of both the incremental encroachment of development into the open countryside and to the sprawl of Kidderminster along the A449. The site sits at its narrowest within a 1.3km gap between the settlements of Kidderminster and Cookley, and the Council will demonstrate that the site provides protection against merging between the settlements, whilst also protecting against sprawl from viewpoints into Kidderminster from the A449 into the north of town. The Council will demonstrate in evidence that the development would also cause unavoidable visual coalescence between the two villages of Cookley and Wolverley.
- 4.14 The site as such provides a strong and direct contribution towards parts a) and c) of Paragraph 138. The Council will demonstrate in evidence that the site provides a greater contribution to these purposes of the Green Belt than other land parcels within its locality.

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4.19 Such mitigation is also used to restrict operational viewpoints from public rights of way and is concluded to provide harm to the current visual amenity of users enjoying the visual openness of this Green Belt land.

4.20 The proposed restoration produces a changed landform and planting scheme that creates more distinct visual screening and some of the planting is used for continuous screening mitigation for later phases of operations. The Council will demonstrate in evidence that the restoration does not restortt001 Tw C

5.0 The County Council's Case: Impact on Amenity

- 5.1 Minerals Local Plan Policy MLP 28 identifies that development should "*not give rise to unacceptable adverse effects on amenity or health and well-being*" and that a "*level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime and taken*

number of dwellings and receptors including Broom Cottage, South Lodges and Heathfield Knoll School.

- 5.7 The identified noise impact is proposed to be mitigated by use of bunds. The Council will demonstrate in evidence that in siting (ep)H061(05)B(2)W(204)Bc(at)W(7)760 8v3 (0)08F305049Tc(00283t)T(200 (a)4353(b)13a)By3f

cumulation of effects with other existing and / or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources".

- 5.12 Cumulative Impact was considered within the appellants Environmental Statement, and within an updated Non-Technical Summary during the application. The appellants conclude that the proposed minerals works could satisfactorily co-exist with the permitted and allocated development at Lea Castle Village without offering any cumulative harm. However, no further technical or cumulative assessment on dust or air quality was undertaken to draw this conclusion; the appellants remain reliant on their Vibrook Air Quality Assessment of 2019 and it does not consider cumulative impact. Furthermore, no revised cumulative assessment on the impacts of combined noise effects with the Lea Castle Village allocation has been undertaken to draw this conclusion.
- 5.13 The Council will demonstrate in evidence therefore that the existing review of air quality and dust impact therefore has failed to satisfactorily consider either the impact on an allocated development, secured within the Wyre Forest District Local Plan, or the combined impact of such developments being located within 250m of each other on the area as a whole.
- 5.14 The Council will demonstrate in evidence that the existing review of noise impacts have failed to satisfactorily consider either the impact on an allocated development, secured within the Wyre Forest District Local Plan.8.9 (t)JB

5.17 Heathfield Knoll School and First Steps Day Nursery are located approximately 15 metres south of the application site, and approximately 80 metres at its closest point to the proposed mineral extraction; the appellants dust assessment concludes that subject to the implementation of mitigation measures, including the use of a bund, the proposal would offer no measurable impact of significance on the school and nursery with regard to

5.23 In the absence of such information, it is concluded that the proposal is contrary to policies MLP 28, MLP 29 and MLP 30 of the Minerals Local Plan, policy WCS 14 of the Waste Core Strategy, policies SP.16 and SP.33 of the Wyre Forest District Local Plan and the Framework.

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