

# 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.**



**Reason:** For the avoidance of doubt and to assist with the monitoring of the planning permission.

**Approved Plans**

4) The development hereby approved shall be carried out in accordance with the details shown on the following approved drawings, except where otherwise stipulated by conditions attached to this permission:

- Drawing numbered: 1, reference number: KD.LCF.001, titled: 'Location Plan', dated October 2019;
- Drawing numbered: 2, reference number: KD.LCF.014, titled: 'Application Boundary / Other Land Under the Control of the Applicant', dated October 2019;
- Drawing numbered: 3, reference number: KD.LCF.002, titled: 'Current Situation', dated October 2019;
- Drawing numbered: 4A, reference number: KD.LCF.013A, titled: 'Proposals Plan', dated July 2021;
- Drawing numbered: 5, reference number: KD.LCF.011, titled: 'Disturbed Land', dated: October 2019;
- Drawing numbered: 6, reference number: KD.LCF.021, titled: 'Plant Site Layout – Plan & Elevations', dated October 2019;
- Drawing numbered: 7, reference number: KD.LCF.022, titled: 'Plant Site Sections – Conveyor Routing beneath PORW 62 6(B)', dated October 2019;
- Drawing numbered: 8A, reference number: KD.LCF.003A, titled: 'Initial Works', dated July 2021;
- Drawing numbered: 9A, reference number: KD.LCF.004A, titled: 'Phase 1 – Working & Restoration', dated July 2021;
- Drawing numbered: 10A, reference number: KD.LCF.005A, titled: 'Phase 2 – Working & Restoration', dated July 2021;
- Drawing numbered: 11A, reference number: KD.LCF.006A, titled: 'Phase 3 – Working & Restoration', dated July 2021;
- Drawing numbered: 12A, reference number: KD.LCF.007A, titled: 'Phase 4 – Working & Restoration', dated July 2021;

- Drawing numbered: 13A, reference number: KD.LCF.008A, titled: 'Phase 5 – Working



numbered: 8A, reference number: KD.LCF.003A, titled: 'Initial Works', dated July 2021; 9A, reference number: KD.LCF.004A, titled: 'Phase 1 – Working & Restoration', dated July 2021; 10A, reference number: KD.LCF.005A, titled: 'Phase 2 – Working & Restoration', dated July 2021; 11A, reference number: KD.LCF.006A, titled: 'Phase 3 – Working & Restoration', dated July 2021; 12A, reference number: KD.LCF.007A, titled: 'Phase 4 – Working & Restoration', dated July 2021; 13A, reference number: KD.LCF.008A, titled: 'Phase 5 – Working &

within 48 hours of an emergency occurrence that would cause working outside the stipulated hours.

**Reason:** To protect the amenity of adjacent residential properties, in accordance with Policy MLP 28 of the adopted Worcestershire Minerals Local Plan, and Policy WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policy SP.33 of the adopted Wyre Forest District Local Plan.

**Design**

- 10) Notwithstanding the submitted details, detailed design drawings of all plant, structures, buildings, including the conveyors to be sited at the site shall be submitted to and approved in writing by the Mineral Planning Authority prior to their erection / construction on site. Details shall include dimensions, materials, colour, and finishes. The development shall be carried out in accordance with the approved details, and shall be retained and maintained as such thereafter.

**Reason:** To maintain the visual and environmental quality of the site, in accordance with Policies MLP 28 and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 12 and WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policies SP.20 and DM.24 of the adopted Wyre Forest District Local Plan.





- v. Any gates erected shall be set back from the nearside edge of the public highway a minimum distance of 15 metres and open away from the highway to allow a commercial vehicle to stand clear of the carriageway; and
- vi. Details of how and where construction vehicles associated with the construction of the vehicular access and haul road only shall enter the site, including routing on site, any temporary haul roads including their specification, restoration specification and timetable for their reinstatement, and any temporary measures to ensure the safe passage of users of Bridleway WC-626 during the construction of the access and haul road.

Thereafter, the vehicular access and haul road shall be carried out in accordance with the approved details and thereafter shall be retained and maintained until the last Phase has been restored.

**Reason:** In the interests of highway safety, to avoid adverse impacts on amenity along transport routes, and to prevent HGVs travelling over the Canal Road Bridge on Wolverley Road (B4189) and travelling along Sion Hill (C2136), in accordance with Policy MLP 39 of the adopted Worcestershire Minerals Local Plan, Policy WCS 8 of the adopted Worcestershire Waste Core Strategy, and Policy SP.27 of the adopted Wyre Forest District Local Plan.

- 14) Notwithstanding the submitted details, prior to the commencement of soil stripping in Phase 1, as shown on drawing numbered: 4A, reference: KD.LCF.013A, titled: 'Proposals Plan', dated July 2021, a scheme for the construction of the below ground conveyor and associated conveyor tunnel / underpass, as shown on drawing numbered: 9A, reference number: KD.LCF.004A, titled: 'Phase 1 – Working & Restoration', dated July 2021, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the design, dimensions, materials, surfacing, construction specification, location shown on a plan, measures to minimise noise and vibration, maintenance arrangements, and a timetable for its removal and restoration specification, Bridleway WC-626 temporary diversion arrangements during its installation and removal, temporary construction / decommissioning -

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- i. The alignment and width of the proposed and upgraded public rights of way;
- ii. Surfacing materials;
- iii. Drainage provision;
- iv. Details of any gates, fences or barriers;
- v. Maintenance arrangements; and
- vi. Timetable for their implementation.

Thereafter, the routes shall be provided and maintained in accordance with the approved details, and shall remain in situ and available for public use until such a time that an agreement under Section 25 Highways Act 1980 has been completed and advertised as dedicated as routes on the Definitive Map.

**Reason:** To enhance public access across the site, and to ensure conformity with submitted details, in accordance with Policies MLP 7 and MLP 30 of the adopted Worcestershire Minerals Local Plan.

**Reason for the pre-commencement condition:** The provision of new routes and upgrading of existing public rights of way are one of the first operations to take place on site, so it is important that such details have been submitted and approved prior to the commencement of the development, for the reasons stated above.

- 21) Notwithstanding the submitted details, prior to the commencement of the development hereby approved, a scheme and programme for the proposed public access routes shown as

Thereafter, the public access routes shall be provided and maintained in accordance with the approved details.

**Reason:** To enhance public access across the site, and to ensure conformity with submitted details, in accordance with Policies MLP 7 and MLP 30 of the adopted Worcestershire Minerals Local Plan.

**Reason for the pre-commencement condition:** The provision of new public access routes is one of the first operations to take place on site, so it is important that such details have been submitted and approved prior to the commencement of the development, for the reasons stated above.

- 22) Notwithstanding the submitted details, prior to the commencement of the development hereby approved, a detailed scheme for the safe crossing by the public over the haul road of any rights of way or permissive bridleways, shall be submitted to and approved in writing by the Mineral Planning Authority. The details shall include the signage to be installed to alert users of the haul road and users of the rights of way or permissive bridleways of the crossing, details of any gates, fences or barriers and surfacing. The crossing shall be implemented in accordance with the approved details and made available prior to the first use of the haul road by any HGVs

23) Notwithstanding the submitted details, prior to

their breeding sites and resting places or along important routes used to access key areas of their territory, such as for foraging; and

- Show how and where external lighting will be installed, through provision of appropriate technical specifications including optic photometric data and contour plans (in both horizontal and vertical planes), and glare rating, so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

Thereafter, the development shall be carried out and maintained in accordance with the approved details. Under no circumstances shall any other external lighting be installed without prior consent from the Mineral Planning Authority.

**Reason:** To maintain the visual and environmental quality of the site, in accordance with Policies MLP 28 and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 12 and WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policies SP.23 and SP.33 of the adopted Wyre Forest District Local Plan.

**Reason for the pre-commencement condition:** Any lighting used on site can impact wildlife and the visual amenity of residents, therefore, a lighting design strategy needs to be submitted and approved before any operations on site commence.

#### **Topographical Survey**

- 25) A topographical survey of the site shall be carried out during the 12th month of extraction operations and shall be provided to the Mineral Planning Authority within 2 weeks of the survey date. Thereafter, the survey shall be carried out annually and supplied to the Mineral Planning Authority within 2 weeks of the survey date. Supplementary topographical surveys shall be undertaken upon the written request of the Mineral Planning Authority and supplied to the Mineral Planning Authority within 2 weeks of a written request. The survey shall be at a scale of 1:1250, with all levels related to Ordnance Datum. The surveys shall include the extent of land open for quarrying or undergoing restoration and quarry floor levels.

**Reason:** For the avoidance of doubt and to assist with the monitoring of the planning permission.



### Water Environment

- 26) No mineral extraction shall take place until a groundwater, surface water level and quality, monitoring scheme has been submitted to and approved in writing by the Mineral Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved

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Authority, and the approved noise mitigation measures have been subsequently implemented. Further noise level monitoring shall be undertaken within 7 days of the implementation of the further noise mitigation and submitted to the Mineral Planning Authority within 7 days of the noise level monitoring being carried out. If the subsequent noise level monitoring results still reveal an exceedance of the relevant noise limits set out in Conditions 30) or 31) of this permission, then the provisions and process set out in this Condition, Part ix shall be repeated until compliance with the noise limits has been achieved;

- x. A procedure for the logging, investigating and responding to noise complaints whether received directly from a member of the public or via the Mineral Planning Authority; and
- xi. If, following a complaint, the Mineral Planning Authority decides that further noise level monitoring is required, written notice shall be given to the Mineral Operator specifying the required noise level monitoring. The further noise level monitoring shall be undertaken by the Mineral Operator and the results submitted in writing to the Mineral Planning Authority within 14 days of the request.

**Reason:** To control noise emissions and the impact of vibrations, in accordance with Policy MLP 28 of the adopted Worcestershire Minerals Local Plan, Policy WCS 14 of the adopted

**Reason:** To control noise emissions, in accordance with Policy MLP 28 of the adopted Worcestershire Minerals Local Plan, Policy WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policy SP.33 of the adopted Wyre Forest District Local Plan.

- 31) During the removal of soils and superficial deposits and the creation of any screen bunds or restoration works, the noise limit at the receptor locations identified in the Noise Assessment Report, dated 12 September 2019 shall not exceed 70dB LAeq 1-hour (free field) for a period of up to 8 weeks in any calendar year. Prior written notice of at least 5 working days, being Mondays to Fridays inclusive, shall be given to the Mineral Planning Authority of the commencement and the duration of such operations.

**Reason:** To control noise emissions, in accordance with Policy MLP 28 of the adopted Worcestershire Minerals Local Plan, Policy WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policy SP.33 of the adopted Wyre Forest District Local Plan.

**Dust**

- 32) Notwithstanding the submitted details, prior to the commencement of the development hereby approved, a Dust Management Plan to include onsite and offsite dust monitoring shall be submitted to and approved in writing by the Mineral Planning Authority. The Dust Management Plan shall be based upon Section 3.0 and Appendix 3 of the Dust Impact Assessment, dated 18 September 2019, Ref: R19.10059/3/AG, and shall follow the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Mineral Dust Impacts for Planning' (2016), set out and require compliance with the good practice mitigation measures set out in Tables 4 and 5 of the IAQM Guidance for both site design and planning and operational control. The Dust Management Plan shall include:



- iii. Provision to be made for analysis of the site investigation and recording;
- iv. Provision to be made and timetable for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made and timetable for archive deposition of the analysis and records of the site investigation; and
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Thereafter, the development shall be carried out in accordance with the approved details.

**Reason:** To allow the historical and archaeological interest of the site to be recorded, in accordance with Policy MLP 32 of the adopted Worcestershire Minerals Local Plan, Policy WCS 9 of the adopted Worcestershire Waste Core Strategy, and Policies SP.21 and DM.23 of the adopted Wyre Forest District Local Plan.

**Reason for the pre-commencement condition:** The site's construction works are the first operations that will take place on site, and these have the potential to disturb archaeological remains, therefore, it is important that a programme of archaeological work, including a Written Scheme of Investigation is submitted and approved prior to works commencing, for the reasons above.

34) Notwithstanding the submitted details, prior to the commencement of the development hereby approved, a scheme for the recording, part removal to create the vehicular access, storage and reinstatement of the historic boundary wall shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details. The scheme shall include:

- i. The method of recording the historic boundary wall brickwork and details of the mortar make-up;
- ii. The method of part removal / dismantling of the historic boundary wall;
- iii. The extent to be shown on a plan, of the part of the historic boundary wall to be removed / dismantled;
- iv. Details of the location and how the bricks from the historic boundary wall will be securely stored to prevent deterioration due to water ingress and frost damage; and

- v. The method and construction specification of the reinstatement of the historic boundary wall to match its appearance prior to removal.

**Reason:** To protect the historic environment, in accordance with Policy MLP 32 of the adopted Worcestershire Minerals Local Plan, Policy WCS 9 of the adopted Worcestershire Waste Core Strategy, and Policies SP.21 and DM.23 of the adopted Wyre Forest District Local Plan.

**Reason for the pre-commencement condition:** The part removal of the historic boundary wall to create the site's vehicular access is one of the first operations that will take place, therefore, it is important that a scheme for its removal and reinstatement, to ensure it can be appropriately recorded is submitted and approved prior to works commencing, for the reasons above.

#### **Stockpiles**

- 35) The height of any stockpiles of sand and gravel and inert waste material shall not exceed 5 metres.

**Reason:** To protect the amenity of the site and the surrounding area, in accordance with Policies MLP 28 and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 12 and WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policies SP.16 and SP.33 of the adopted Wyre Forest District Local Plan.

#### **Soil Handling and Storage**

- 36) Soil handling and placement shall take place in accordance with the 'Agricultural Land Classification and Soils Resource Report', dated May 2018, and the Institute of Quarrying publication 'Good Practice Guide for Handling Soils in Minerals Workings' (July 2021), and only when the soils are dry and friable and in dry ground conditions.

**Reason:** To ensure soils are managed and conserved for beneficial purposes to ensure the satisfactory restoration of the site, in accordance with Policies MLP 34 and MLP 35 of the adopted Worcestershire Minerals Local Plan.

- 37) All topsoil and subsoil shall be permanently retained on site and used in restoration.



**Reason:** To ensure soils are managed and conserved for beneficial purposes to ensure the satisfactory restoration of the site, in accordance with Policies MLP 34 and MLP 35 of the adopted Worcestershire Minerals Local Plan.

38) All topsoil, subsoil and overburden shall be stored in separate bunds which:

- i. Shall be constructed with only the minimum amount of soil compaction to ensure stability and so shaped as to avoid collection of water in surface undulations;
- ii. Shall not be traversed by heavy vehicles or machinery except where essential for the purposes of bund construction or maintenance;
- iii. Shall not be subsequently moved or added to until required for restoration;
- iv. Shall have a minimum 3 metre stand-off buffer of undisturbed ground around each storage bund;
- v. Shall only store topsoil on like textured topsoil and subsoil on like textured subsoil; and
- vi. Topsoil bunds shall not exceed 3 metres in height, subsoil bunds shall not exceed 5 metres in height, and overburden bunds shall not exceed 6 metres in height.

**Reason:** To ensure soils are managed and conserved for beneficial purposes to ensure the satisfactory restoration of the site, in accordance with Policies MLP 34 and MLP 35 of the adopted Worcestershire Minerals Local Plan.

39) No plant or vehicles shall cross any area of unstripped soil or subsoil, except where such trafficking is essential for the purposes of undertaking permitted operations. Essential traffic routes shall be marked in such a manner as to give effect to this condition. No part of the site shall be excavated, traversed or used as a road for the stationing of plant or buildings or for the storage of subsoil, overburden, waste or mineral deposits, until all available topsoil has been stripped from that part. The exceptions are that topsoil may be stored on like topsoil and subsoil may be stored on like subsoil.

**Reason:** To ensure soils are managed and conserved for beneficial purposes to ensure the satisfactory restoration of the site, in accordance with Policies MLP 34 and MLP 35 of the adopted Worcestershire Minerals Local Plan.





- iii. Extent and location / area of proposed enhancement works on appropriate scale maps and plans to include any mitigation and enhancement measures such as bat and / or bird boxes;
- iv. Ecological trends and constraints on site that might influence management;
- v. Methods for data gathering and analysis;
- vi. Location, timing and duration of monitoring;
- vii. Responsible persons and lines of communication;
- viii. Appropriate success criteria, thresholds, triggers and targets against which the

Reason for the pre-commencement condition:

- vii. Measures to control and prevent the spread of non-native invasive species; and
- viii. Those responsible for implementation of the scheme.

**Reason:** To protect, conserve and enhance the site's value for biodiversity and to maintain the visual and environmental quality of the site, in accordance with Policies MLP 7, MLP 11, MLP 31, and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 9, WCS 11, and WCS 12 of the adopted Worcestershire Waste Core Strategy, and Policies SP.20, SP.22, SP.23, SP.28, DM.24 and DM.26 of the adopted Wyre Forest District Local Plan.

**Reason for the pre-commencement condition:** A LEMP is required at the outset of the development as it may inform earlier stages of the development.

- 44) Notwithstanding the submitted details, prior to the commencement of soil stripping operations in Phases 1 to 3 as shown on drawing numbered: 4A, reference number: KD.LCF.013A, titled: 'Proposals Plan', dated July 2021, measures, including details of locations and dimensions of hay bales to assist with visually screening the development hereby approved shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved scheme.

**Reason:** To protect the visual amenity of the site, and the environmental quality of the surrounding area, in accordance with Policies MLP 28 and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 12 and WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policies SP.20, SP.33, DM.24, and DM.26 of the adopted Wyre Forest District Local Plan.

- 45) Notwithstanding the submitted details, trees T9 and T10 as shown on drawing numbered: TS71-004, titled: 'Tree Protection & Removal Plan 2', dated May 2019 in the Environmental Statement Volume 2 'Technical Appendix C – Arboriculture', shall be retained, and, no site

zone should be 5 metres from the edge of the tree's canopy if that area has a radius larger than 15 times the tree's diameter) to the works. Thereafter, the approved scheme shall be implemented for the duration of soil stripping operations, mineral extraction, infilling operations and soil replacement operations in Phase 3, as shown on drawing numbered: 4A, reference number: KD.LCF.013A, titled: 'Proposals Plan', dated July 2021.

**Reason:** To ensure the retention of identified trees in accordance with Policies MLP 31, and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 9 and WCS 12 of the adopted Worcestershire Waste Core Strategy, and Policies SP.23 and DM.24 of the adopted Wyre Forest District

47) In the event that the winning and working of minerals or waste infilling from the site cease for a period in excess of 12 months prior to the achievement of the completion of the approved restoration scheme referred to in Condition 46) of this permission, then within 3 months of the receipt of a written request from the Mineral Planning Authority, a revised scheme, to include details of restoration and aftercare, shall be submitted to the Mineral Planning Authority for approval in writing. The revised scheme shall



the management of the restored areas for the following year. Thereafter, the development shall be carried out in accordance with the approved details, or as amended in consultation with the Mineral Planning Authority following each aftercare meeting.

**Reason:** To provide for aftercare of the restored site, in accordance with Policies MLP 7, MLP

**Reason:** To support climate change mitigation, in accordance with Policy MLP 26 of the adopted Worcestershire Minerals Local Plan, and Policy SP.37 of the adopted Wyre Forest District Local Plan.

**Permitted Development Rights**

- 52) Notwithstanding the provisions of Class L of Part 7 and Class A and Class B of Part 17 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no fixed or mobile plant, machinery, buildings, structures, erections or private ways shall be erected, extended, installed, rearranged, replaced or altered within the site without the approval of the Mineral Planning Authority.

**Reason:** To protect the visual amenity of the site and the surrounding area, in accordance with Policies MLP 28 and MLP 33 of the adopted Worcestershire Minerals Local Plan, Policies WCS 12 and WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policies SP.20 and DM.24 of the adopted Wyre Forest District Local Plan.

**Other Matters**

- 53) There shall be no crushing, screening, sorting or processing of any waste materials or other minerals that are brought on to the site.

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**Reason:** To define the permission and to protect the amenity of adjacent residential properties, in accordance with Policy MLP 28 of the adopted Worcestershire Minerals Local Plan, Policy WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policy SP.33 of the adopted Wyre Forest District Local Plan.

- 54) There shall be no retail sales on site to the general public

**Reason:** To protect the amenity of adjacent residential properties, in accordance with Policy MLP 29 of the adopted Worcestershire Minerals Local Plan, Policy WCS 14 of the adopted Worcestershire Waste Core Strategy, and Policy SP.33 of the adopted Wyre Forest District Local Plan.

**Local Liaison**

56) No development shall commence until a scheme detailing the establishment and operation of a Community Liaison Group (CLG) has been submitted to and approved in writing by the Mineral Planning Authority. The scheme be in the form of terms of reference for the CLG and shall set out:

- i. The aims and purpose of the group;
- ii. The membership of the group;
- iii. The operation of the group (including regularity of meetings and who would chair the meetings) / standard agenda items and voting;
- iv. Accountability of the group;
- v. Recording of meetings; and
- vi. Access to the record of meetings.

Once approved the CLG scheme shall be implemented in accordance with the approved terms of reference throughout the construction, operation, restoration and aftercare period of the

the duration of the development and shall be made known to any person(s) given responsibility