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NOTE TO DEFENDANT/RESPONDENT AND

INTERESTED PARTY(IES)

Our ref: CO/2189/2023

14 June 2023

This matter has been commenced and is currently proceeding in the **Administrative Court at Birmingham**. Please note that such proceedings may also be administered and determined at one of the following Administrative Court venues:

Cardiff Civil Justice Centre – 2 Park Street, Cardiff, CF10 1ET;

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Certain matters may only be heard in the Administrative Court in London (see Practice Direction 54D for details of the types of cases excepted from regional hearings). The Court will transfer such cases to London for hearing, where appropriate.

Should this matter not be one that is excepted by PD 54D and you wish to seek a direction that any hearings in this matter be heard at another of the Administrative Court regional venues, you should complete, lodge with the Administrative Court in **Birmingham** (address at the top of this letter) and serve on all parties to this claim, a Form N464, Application for Directions as to venue for administration and determination, within 21 days of service of the claim form upon you. There is a fee payable for such application.

Form N464 and Practice Direction 54D can be obtained from any of the Administrative Court Offices or downloaded from the Ministry of Justice website at www.justice.gov.uk/about/hmcts/index.htm.

Regional Manager

N208PC

Planning Statutory Review
Part 8 Claim Form (CPR8.1(6) and
Practice Direction 8C)

In the High Court of Justice
Planning Court in the Administrative Court

For Court use only	
Planning Court Reference No.	CO/2189/2023
Date filed	14/6/2023



SECTION 1 Details of the claimant(s) and defendant(s)

Claimant(s) name(s) and address(es)

name
NRS Saredon Aggregates Limited

address
7 Meriden Park,
Cornets End Lane,
Meriden.
CV7 7LG

Telephone no. 01827 370058 **Fax no.**

E-mail address
kieran.m@nrswastecare.com

Claimant(s) or claimant(s) legal representative(s) address to which documents should be sent.

name
Newhall Solicitors LLP

address
83 Newhall Street,
Birmingham,
West Midlands.
B3 1LH.

Telephone no. 0121 227 5063 **Fax no.** 0121 227 5060

E-mail address
MBaxendale@newhallsolicitors.com

Claimant(s) Counsel's details

name
Jenny Wigley KC

address
Landmark Chambers,
180 Fleet Street,
London,
EC4A 2HG

Telephone no. 0207 430 1221 **Fax no.**

E-mail address
JWigley@landmarkchambers.co.uk

1st Defendant

name
Secretary of State for Levelling Up, Housing & Communities.

Defendant(s) or (where known) Defendant(s) legal representative(s) address to which documents should be sent.

name
The Treasury Solicitor/Government Legal Department.

address
Planning Section D3,
Petty France,
Westminster.
SW1H 9GL.

Telephone no. 0207 210 3000 **Fax no.**

E-mail address
newproceedings@governmentlegal.gov.uk

2nd Defendant

name
Worcestershire County Council

Defendant(s) or (where known) Defendant(s) legal representative(s) address to which documents should be sent.

name
Legal Department

address
County Hall,
Spetchley Road,
Worcester.
WR5 2NP.

Telephone no. 01905 763763 **Fax no.**

E-mail address

SECTION 2 Details of other interested parties as set out in paragraph 4 of PD 8C

Include name and address and, if appropriate, details of DX, telephone or fax numbers and e-mail

name
Stop the Quarry

address
5 Steelhouse Lane,
Birmingham,
B4 6DR

Telephone no.
0845 210 5555

Fax no.

E-mail address

name

address

Telephone no.

Fax no.

E-mail address

SECTION 3 Details of the decision to be statutorily reviewed

Decision:
The Statutory Appeal Decision made on 5th May 2023 under reference APP/E1855/W/22/3310099 by Mr S Normington, the Inspector appointed by the First Defendant.

This claim for statutory review is being made under the following section as set out in CPR PD 8C 1.1:-

- section 287 of the Town and Country Planning Act 1990
- section 288 of the Town and Country Planning Act 1990
- section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- section 22 of the Planning (Hazardous Substances) Act 1990
- section 113 of the Planning and Compulsory Purchase Act 2004
- other, please state

Date of decision:
5th May 2023

Name and address of the authority, tribunal or minister of the Crown who made the decision to be reviewed.

name
Rt. Hon. Michael Gove MP, The Secretary of State for
Levelling Up, Housing and Communities.

address
102 Petty France,
Westminster,
SW1H 9GL.

SECTION 4 Permission to proceed with a claim for a planning statutory review

I am seeking permission to proceed with my claim for a planning statutory review.

Are you making any other applications? If Yes, complete Section 8. Yes No

Is the claimant in receipt of a Civil Legal Aid Certificate? Yes No

Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Section 8. Yes No

Have you issued this claim in the region with which you have the closest connection? (Give any additional reasons for wanting it to be dealt with in this region in the box below). If No, give reasons in the box below. Yes No

Does the claim include any issues arising from the Human Rights Act 1998? Yes No
If Yes, state the articles which you contend have been breached in the box below.

SECTION 5 Detailed statement of grounds

set out below attached

SECTION 6 Aarhus Convention Claim

If you have indicated that the claim is an Aarhus claim set out the grounds below, including (if relevant) reasons why you want to vary the limit on costs recoverable from a party.

SECTION 7 Details of remedy (including any interim remedy) being sought

set out below attached

An order to quash the decision with costs.

SECTION 8 Other applications

set out below attached

I wish to make an application for:-

SECTION 9 Statement of facts relied on

set out below attached

SECTION 10 Supporting documents

If you intend to use a document to support your claim but do not presently have that document, identify it, give the date when you expect it to be available and give reasons why it is not presently available in the box below.

Please also tick the following boxes in relation to the papers you are filing with this claim form and any you will be filing later.

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Detailed statement of grounds | <input type="checkbox"/> set out in Section 5 | <input checked="" type="checkbox"/> attached |
| <input type="checkbox"/> Application for directions | <input type="checkbox"/> set out in Section 8 | <input type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Statement of the facts relied on | <input type="checkbox"/> set out in Section 9 | <input checked="" type="checkbox"/> attached |
| <input type="checkbox"/> Written evidence in support of the claim | | <input type="checkbox"/> attached |
| <input type="checkbox"/> Where the claim for a planning statutory review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision | | <input type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Copies of any documents on which the claimant proposes to rely | | <input checked="" type="checkbox"/> attached |
| <input type="checkbox"/> A copy of the legal aid or Civil Legal Aid Certificate (<i>if legally represented</i>) | | <input type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Copies of any relevant statutory material | | <input checked="" type="checkbox"/> attached |
| <input checked="" type="checkbox"/> A list of essential documents for advance reading by the court (<i>with page references to the passages relied upon</i>) | | <input checked="" type="checkbox"/> attached |

Reasons why you have not supplied a document and date when you expect it to be available:-

Statement of Truth

I ~~believe~~ (The claimant believes) that the facts stated in this claim form are true.

Full name Michael Richard Joseph Baxendale

Name of claimant's legal representative's firm Newhall Solicitors LLP

Signed 
Claimant ('s legal representative)

Position or office held _____
(if signing on behalf of firm or company)

- policies MLP1, MLP3, MLP7, MLP11, MLP14, MLP15, MLP27 and MLP31 of the *Worcestershire Minerals Local Plan*

-NPPF extracts

- *Statement of Common Ground*

-*extracts from the proof of Mr Toland*

Introduction

1. This is an application for planning statutory review brought under section 288 of the Town and Country Planning Act 1990 (“TCPA1990”) by NRS Saredon Aggregates Limited (the “Claimant”) against the decision dated 5 May 2023 of the First Defendant, the Secretary of State for Levelling Up, Housing and Communities (“the SoS”) dismissing an appeal under section 78 TCPA 1990 by the Claimant against the refusal of the Second Defendant, Worcestershire County Council (the “Council”) to grant planning permission for a sand and gravel quarry (the “Development”) at Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire (the “Site”).
2. The Interested Party, ‘Stop the Quarry’ is a local residents’ association who participated in the appeal.

Summary Grounds of Challenge

3. In summary, the challenge is brought on three grounds (set out in more detail below):

(1) Error of law in relation to biodiversity net gain;

(2) Breach of s.38(6) of the 2004 Act by (i) failure to have regard to two important policies; (ii) failure to recognise the statutory priority of the development plan; (iii) failure to determine whether the proposal complies with the development plan as a whole; and (iii) failure to understand the nature and degree of compliance or conflict with the development plan.

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

IN AN APPLICATION FOR PLANNING STATUTORY REVIEW UNDER SECTION 288
OF THE TOWN AND COUNTRY PLANNING ACT 1990

BETWEEN:

NRS SAREDON AGGREGATES LIMITED

Claimant

-and-

(1)THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES

(2) WORCESTERSHIRE COUNTY COUNCIL

Defendants

-and-

STOP THE QUARRY CAMPAIGN

Interested Party

STATEMENT OF FACTS AND GROUNDS

References (DL/xx) are to paragraphs in the Inspector's decision letter.

Recommended Essential Reading:

- the Inspector's decision letter

- (3) Failure to take into account two material factors (economic benefits and locational sustainability benefits), that had been put forward as very special circumstances to justify any potential Green Belt harm.

Factual Background

4. The Site is within the North West Worcestershire Strategic Corridor as defined within the Worcestershire Minerals Local Plan (“MLP”). The Site is also within the Green Belt. The Proposal is for phased extraction of approximately 3 million tonnes of sand and gravel over a period of around 10 to 11 years, with a progressive restoration scheme including the creation of new agricultural parkland, new rights of way and native woodland areas.
5. The Claimant’s appeal against the Council’s refusal of planning permission was heard by a planning inspector appointed by the First Defendant who held a public inquiry lasting eight days. The Council and the First Defendant agreed a revised Statement of Common Ground (“SCG”) which was submitted to the inquiry (as Core Document 13.27).
6. Of particular relevance to this Claim, the following matters were agreed as part of the SCG:

Restoration and Green Infrastructure

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

“The proposed restoration scheme includes the creation of a new agricultural parkland, providing approximately 2.7 kilometres of new public bridleways and permissive bridleways and 5 pocket parks. Native woodland blocks would be

re-established to reflect previous historic land uses (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439 metres of hedgerows would be strengthened, approximately 579 metres of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees reinstating the historic avenue of trees along bridleways WC-625 and WC-626.” (SCG, para 3.8)

Sustainability

“When looking at the supply of mineral within a county a balanced spread of geographical location supply sources is very important in promoting sustainable development. Aggregates being bulky in nature, costly to transport / typically only transported about 30 miles from source. The closest county sand and gravel quarry to Kidderminster is Clifton Quarry, located circa. 24 miles away. It is agreed that the Appeal Proposal would help provide a balanced geographical spread of mineral supply sources.” (SCG para 7.8)

Biodiversity

“It is agreed that the submitted Restoration Plan and scheme outlined within the Environmental Statement provides a Biodiversity Net Gain of approximately 39.1% against the Metric 3.1 Baseline as calculated within the additional assessment provided under Regulation 25 in January 2023. The restoration was calculated as providing 87.21% Biodiversity Net Gain against the Metric 2.0 Baseline within the original assessment informing the Environmental Statement.” (SCG, para 7.20)

7. At paragraph 5.5 of the SCG, the parties identified the development plan policies considered relevant to the Appeal. These included Policy MLP 7 which is not referred to in the decision letter.

8. At paragraph 8.1 of the SCG, the matters on which the parties disagree are identified. The only development plan policies over which there was stated to be disagreement as to whether there was accord or not were the Green Belt policies, namely Policy MLP 27 of the Minerals Local Plan, Policy WCS 13 of the Waste Core Strategy and Policy DM22 of the Wyre Forest District Council Local Plan.
9. The SCG also identified as a matter in dispute the weight to be ascribed to the biodiversity net gain benefit in the balance (para 8.1).
10. In section 10 of his proof of evidence to the inquiry, the Claimant's planning expert witness, Liam Toland, set his evidence as to what would constitute 'very special circumstances' ("vsc") that would justify the Development in the Green Belt if it were considered to be 'inappropriate' development in the Green Belt. One of these was the geographical spread of resources, including:
 - the unique logistical position of the Site in the marketplace, which affects the distance needed to travel to market as well as the demand for resources from outside the county to meet the demand;
 - the importance of the geographic location of the site in terms of contributing to a geographic spread of supply which is very important in promoting sustainable development; (proof, para 10.3.1)
11. Mr Toland also relied on biodiversity as a vsc and stated that he considered that the biodiversity net gain of the scheme is a 'major benefit' adding 'significant weight' in favour of the proposal (see paras 10.5.7 – 10.5.9 and paras 11.1.16, 11.1.17 and Appendix 4).
12. He also relied on economic and growth issues, both national and local, and attributed significant weight to this as a vsc (proof section 10.4).
13. In paragraph 5.4 of his summary proof of evidence to the inquiry, the Council's planning witness, Christopher Whitehouse, considered that "the scheme would have some substantial benefits for biodiversity in the long term, subject to a number of high risk

aspects of the restoration scheme being successful delivered across the long term; the risks of which limit the benefits to moderate in the planning balance”.

14. As to the geographical spread of resources, he stated at paragraph 5.3: “Whilst the geographical spread of resources is a benefit, there is not an acute issue for location of supply as a proportion of the landbank available. As such, moderate weight is applied to the consideration.”
15. As to the economy, Mr Whitehouse stated at paragraph 5.4: “Employment provision and other operational aspects of the development would make a moderate but nonetheless significant contribution to the economy”.
16. After a public inquiry lasting eight days, the Inspector set out his conclusions in his decision letter (which should be read as a whole and in full). He concluded in favour of the Development in relation to amenity, living condition and health (noise, dust, air quality), landscape and visual considerations, highways and public rights of way (DL188 to 189).
17. He found that the Development would accord with, or not conflict with, all development plan policies save for:
 - MLP 27, WSC 13, DM.22, relating to Green Belt; and
 - MLP Policies 7 and 11, which he failed to address.
18. He gave full consideration to a number of issues that remained in dispute with the rule 6 party and he made the following key findings in his decision letter (“DL”):
 - no significant adverse effect on the amenity of the area or the living conditions and health of those living nearby or using recreational features, (DL119);
 - no significant adverse effect on the character or appearance of the site and surrounding landscape and no significant adverse effect on visual receptors (DL131);

- overall the landscape restoration scheme will deliver landscape benefits which should be afforded moderate weight in the planning balance (DL129 to 130);
- no severe residual cumulative impact on the road network and nothing more than a negligible increased risk to highway safety (DL149 – 150, 189);
- minor impact on the views from users of the public right of way network, to be afforded limited weight in the planning balance (DL136 & 189);
- perception of harm to the local economy, to be afforded limited weight;
- less than substantial harm to the setting of a heritage asset; but benefits found to outweigh that harm (DL164 – 166);
- the proposal would make a notable contribution to the supply of needed minerals, a matter of substantial significance that should be given great weight (DL50 and DL191);
- the economic benefits of the proposed development, including the provision of a minimum of 11 full time jobs would make a modest contribution to the local economy, such benefits to be afforded moderate weight (DL192);
- biodiversity net gain of nearly 4 times that required by forthcoming legislation. As some of that ‘is required to meet national policy and future legislative requirements’ in order to mitigate the environmental impact of the development, such enhancements should be afforded only moderate weight (DL195);
- the landscape benefits of the restoration scheme should be accorded moderate weight (DL129 – 130 & 194)
- the proposed additions to the public rights of way network would offer a benefit of minor significance, which should be given slight weight in the planning balance (DL137 & 194)
- the appeal site and its immediate environs will soon likely form the remaining area of Green Belt between settlements and so has spatial importance. The appeal site plays an extremely important Green Belt role (DL59 & 60).
- the proposal constitutes mineral extraction and engineering operations under paragraph 150 of the NPPF. The plant, equipment, buildings and access and

activity associated with mineral extraction would, to some extent impair the openness of the area but this alone would not exceed the threshold or ‘tipping point’ of appropriate minerals development. However, the soil and overburden storage bunds would have a greater adverse impact on the openness of the Green Belt. Whilst the adverse effect of the bunds on openness would be fully reversible over time, their length, height and duration 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 and visual adverse effect on the openness of the Green Belt. This means that the appeal scheme would not preserve the openness of the Green Belt and consequently the exception for mineral extraction in the Green Belt would not apply and the proposal would be inappropriate development which is by definition harmful.

- not possible to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m³ 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 (DL199).

19. The Inspector’s decision to dismiss the appeal was based wholly on his consideration of whether or not there were very special circumstances to outweigh Green Belt harm and was ‘very finely balanced’ (DL200).

Legal Propositions

Challenges to Inspectors’ Decisions

20. The principles that apply when challenging an inspector’s decision letter are well established (see *East Staffordshire BC v SSCLG* [2018] PTSR 88 at para. 50; and *St Modwen v SSCLG* [2017] EWCA Civ 1643 at para. 7). In essence, Inspectors’ decision letters are to be construed benevolently and as a whole, in a reasonably

flexible way. They are written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues (see Forbes J. in *Seddon Properties v Secretary of State for the Environment* (1981) 42 P. & C.R. 26, at p. 28). An adverse inference that a decision-maker has misunderstood something or failed to have regard to it will not readily be drawn. However, where an inspector makes a material error, such as failing to have regard to a relevant material consideration, that will be an error of law capable of vitiating his decision (see *Tesco Stores v Secretary of State for Environment* [1995] 1 WLR 759 per Lord Hoffman at para. 57).

Determination of Planning Applications

21. In determining planning applications and appeals, the decision-maker must have regard to provisions of the development plan so far as material and must decide applications in accordance with the development plan unless material considerations indicate otherwise (section 70(2) TCPA and section 38(6) Planning and Compulsory Purchase Act 2004 (“2004 Act”).

22. This means that whilst the assessment of the facts and the weighing of the considerations is in the hands of the decision maker, the development plan has a statutory priority which must be recognised by the decision maker (see *City of Edinburgh Council v. Secretary of Scotland* [1997] 1 WLR 1447, at 1458). The principles *City of Edinburgh* were summarised by HH Judge Mackie in *South Northamptonshire Council v. SSCLG* [2013] EWHC 11 (at para 20):

“I conclude from all this that [section 38(6)] requires not a simple weighing up of the requirement of the plan against the material considerations but an exercise that recognises that while material considerations may outweigh the requirements of a development plan, the starting point is the plan which receives priority. The scales do not start off in even balance.”

23. There is significant recent caselaw as to the s.38(6) duty (some of which is set out below). It is well established that a key component of the duty is that the decision maker must establish whether or not the proposal accords with the development plan as a whole.
24. The Court of Appeal in R (oao Wyatt) v. Fareham BC ([2022] EWCA Civ 983, [2023] Env. LR 14) stated as follows:

“79. This provision [s.38(6) of the 2004 Act] and its predecessor, section 54A of the Town and Country Planning Act 1990, are the subject of ample authority, including several decisions at the highest level and in this court. The relevant principles do not need to be set out at length yet again. They have been stated and restated many times (see, for example, the decision of this court in *Secretary of State for Communities and Local Government v BDW Trading Ltd. (trading as David Wilson Homes (Central, Mercia and West Midlands))* [2017] PTSR 1357, at paragraphs 19 to 23). A decision-maker must always heed the statutory priority given to the development plan, but is free to assess what weight to give to its policies and to all other material considerations in deciding whether the decision should be made, as the statute presumes, in accordance with the plan (see the speech of Lord Clyde in *City of Edinburgh v Secretary of State for Scotland* [1997] 1 W.L.R. 1447, at pp.1458 and 1459). If the decision-maker fails to have regard to a relevant policy in the plan or to interpret it properly, conscious that relevant policies in the plan may pull in different directions, the court can act (Lord Clyde's speech in *City of Edinburgh*, at p.1459D-F, and the judgments of Lord Reed and Lord Hope of Craighead in *Tesco Stores Ltd. v Dundee City Council* [2012] PTSR 983, at paragraphs 19 and 34 respectively). But there is no prescribed method for discharging the section 38(6) duty, such as a two-stage approach. This is left to the decision-maker's good sense in the particular circumstances of the case in hand (Lord Clyde's speech in *City of Edinburgh*, at pp.1459 and 1460).

80. In R. (on the application of Hampton Bishop Parish Council) v Herefordshire Council [2014] EWCA Civ 878, Lord Justice Richards said (in paragraph 28) that “[it] is up to the decision-maker how precisely to go about the task, but if he is to

act within his powers and in particular to comply with the statutory duty to make the determination in accordance with the development plan unless material considerations indicate otherwise, he must as a general rule decide at some stage in the exercise whether the proposed development does or does not accord with the development plan". As Mrs Justice Patterson emphasised in *Tiviot Way Investments Ltd. v Secretary of State for Communities and Local Government* [2015] EWHC SS2489 (Admin) (at paragraphs 27 to 36) , with the later endorsement of this court in *BDW Trading Ltd.* (at paragraph 21), the decision-maker must ascertain whether there is compliance or conflict with the development plan "as a whole".

25. In *SSCLG v. BDW Trading Ltd* ([2016] EWCA Civ 493), Lindblom LJ set out the relevant principles as follows:

“20. Without seeking to be exhaustive, I think there are five things one can fairly say in the light of the authorities.

21. First, the section 38(6) duty is a duty to make a decision (or “determination”) by giving the development plan priority, but weighing all other material considerations in the balance to establish whether the decision should be made, as the statute presumes, in accordance with the plan (see Lord Clyde's speech in *City of Edinburgh Council* , at p.1458D to p.1459A, and p.1459D-G). Secondly, therefore, the decision-maker must understand the relevant provisions of the plan, recognizing that they may sometimes pull in different directions (see Lord Clyde's speech in *City of Edinburgh Council* , at p.1459D-F, the judgments of Lord Reed and Lord Hope in *Tesco Stores Ltd. v Dundee City Council* [2012] UKSC 13 , respectively at paragraphs 19 and 34, and the judgment of Sullivan J., as he then was, in *R. v Rochdale Metropolitan Borough Council, ex p. Milne* [2001] J.P.L. 470 , at paragraphs 48 to 50). Thirdly, section 38(6) does not prescribe the way in which the decision-maker is to go about discharging the duty. It does not specify, for all cases, a two-stage exercise, in which, first, the decision-maker decides “whether the development plan should or should not be accorded its statutory priority”, and secondly, “if he decides that it should not be given that priority it should be put aside and attention concentrated upon the material factors which

remain for consideration” (see Lord Clyde's speech in *City of Edinburgh Council* , at p.1459H to p.1460D). Fourthly, however, the duty can only be properly performed if the decision-maker, in the course of making the decision, establishes whether or not the proposal accords with the development plan as a whole (see the judgment of Richards L.J. in *R. (on the application of Hampton Bishop Parish Council) v Herefordshire Council [2014] EWCA Civ 878* , at paragraph 28, and the judgment of Patterson J. in *Tiviot Way Investments Ltd. v Secretary of State for Communities and Local Government [2015] EWHC 2489 (Admin)* , at paragraphs 27 to 36). And fifthly, the duty under section 38(6) is not displaced or modified by government policy in the NPPF. Such policy does not have the force of statute. Nor does it have the same status in the statutory scheme as the development plan. Under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, its relevance to a planning decision is as one of the other material considerations to be weighed in the balance (see the judgment of Richards L.J. in *Hampton Bishop Parish Council* , at paragraph 30).”

26. In order to consider on a proper basis whether a departure from the development plan is justified by other material considerations, it is necessary to understand the nature and extent of the departure from the plan (per Lord Reed in *Tesco Stores Ltd v Dundee City Council [2012] 2 P. & C. R.* at paragraph 22).

Biodiversity Net Gain

27. Section 98 and Schedule 14 of the Environment Act 2021 are not yet in force. They make provision for new provisions (s.90A and Schedule 7A) to be inserted in the TCPA 1990 to make grants of planning permission “to be subject to a condition that the biodiversity gain objective is met.”
28. Paragraph 2(1) of Schedule 7A (which is to be inserted in the TCPA 1990) provides that: “the biodiversity gain objective is met in relation to development for which planning permission is granted if the biodiversity value attributable to the development

exceeds the pre-development biodiversity value of the onsite habitat by at least the relevant percentage.”

29. Under paragraph 2(3) of Schedule 7A (which is to be inserted in the TCPA 1990), “the relevant percentage is 10%”.
30. As already mentioned, these legal requirements are not yet in force. It is Government’s intention that the mandatory biodiversity net gain requirement for development requiring planning permission under the TCPA 1990 will commence for new applications from November 2023, that is 2 years after royal assent of the Environment Act, which was achieved in November 2021 (see p.15 of the January 2022 Consultation on Biodiversity Net Gain Regulations and Implementation). There has never been any expressed intention by Government that these legal requirements might apply retrospectively to planning permissions granted before they came into force.
31. Under the common law, there is a presumption against legislative changes applying retrospectively:

“The general rule, applicable in most modern legal systems, is that legislative changes apply prospectively. Under English law, for example, unless a contrary intention appears, an enactment is presumed not to be intended to have retrospective effect. The logic behind this principle is explained in *Bennion on Statutory Interpretation*, 6th ed (2013), Comment on Code section 97:

“If we do something today, we feel that the law applying to it should be the law in force today, not tomorrow’s backward adjustment of it. Such, we believe, is the nature of law.’... those who have arranged their affairs... in reliance on a decision which has stood for many years should not find that their plans have been retrospectively upset.’”

(per Lord Kerr, at para 22 in *Walker v. Innospec Limited* ([2017] UKSC 47))

Development Plan Policy Relevant to the Grounds of Claim

32. The Worcestershire Minerals Local Plan (2018 – 2036) (“MLP”) (relevant extracts in the Claim Bundle) forms part of the statutory development for the purposes of s.38(6) of the 2004 Act.

33. As summarised in paragraphs 21 to 25 of the DL, there are a number of strategic policies in the MLP which support sand and gravel development in one of the ‘strategic corridors’ (Policies MLP 1, MLP 3). Additionally, there is development plan policy support for development which contributes to maintaining a landbank of productive capacity for sand and gravel and which contribute to delivering a steady and adequate supply (Policies MLP 14 and MLP 15).

34. Policies MLP 7 (Green Infrastructure) states that 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. Policy MLP 11 (North West Worcestershire Strategic Corridor) states that, amongst other matters, 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. It further sets out a number of green infrastructure priorities that will be required to be delivered at each stage of a mineral site’s life.

35. Policy MLP 27 (Green Belt) sets out that mineral extraction and/or engineering operations within the Green Belt will be supported where it can be demonstrated that, throughout its lifetime, the mineral extraction and/or engineering operations will preserve the openness of the Green Belt and not conflict with the purposes of including land within it. It further sets out that where any aspect of the proposed development is inappropriate in the Green Belt, including mineral extraction and/or engineering operations, that cannot satisfy the above tests, 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. As will not normally be supported elsewhere in the county.

36. Policy MLP 31 (Biodiversity) states that, among other things, planning permission will be granted where it is demonstrated that the proposed mineral development will conserve, enhance and deliver net gains for biodiversity.

National Planning Policy Framework

37. The National Planning Policy Framework (“NPPF”) is an important material consideration in planning determinations. Policies relevant to the grounds of claim are as follows:

38. Green Belt policy is set out in section 13 of the NPPF with the main parts being paragraphs 137 – 138 and 147 - 150.

39. Policy relating to conserving and enhancing the natural environment is set out in section 15 of the NPPF. Paragraph 174(d) states:

“Planning policies and decisions should contribute to and enhance the natural and local environment by:

(d) minimising impacts on and providing net gains for biodiversity,…”

40. Policy relating to ‘Facilitating the sustainable use of minerals’ is set out in section 17 of the NPPF (at paragraphs 209 to 214). At paragraph 211 it states: “when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.”

41. Policy relating to “Building a strong, competitive economy” is set out in section 6 of the NPPF (at paragraphs 81 to 85). It states that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”.

Grounds of Challenge

Ground (1) Error of Law in relation to Biodiversity Net Gain

42. The Inspector accepted that the proposal would deliver significant biodiversity net gain at more than 39% for habitats and more than 100% for hedgerows. He noted that “the net gain would be nearly 4 times that required by forthcoming legislation” but afforded these enhancements only moderate weight on the basis that “some of the 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.”
43. This is an error in the Inspector’s reasoning because there is of course no *requirement* to meet *future* legislative requirements. It was an error of law for the Inspector to rely on the proposition that some of the net gain that would be achieved is required to meet future legislative requirements.
44. Under s.98 of the Environment Act 2021, Schedule 14 will introduce new provisions into the TCPA 1990 (new s.90A and Schedule 7A) which will make it a condition of all new planning permissions to deliver and maintain at least 10% biodiversity net gain. However, none of this is yet in force. Government has indicated that this will come into force in November 2023 but this will not be a retrospective requirement and so would not affect a planning permission granted now (see above re Government’s intention as expressed in its consultation document and see the common law presumption against retrospective effect, set out under the legal propositions section above).
45. As to national policy requirements, there is a requirement for mineral extraction restoration to be carried out to high environmental standards (NPPF para 211(e)) and the NPPF requires biodiversity net gain (see NPPF para 174(d) and 180(d)). Similarly, development plan policy MLP 31 requires biodiversity net gain in general terms. However, unlike the future legislative provisions, none of the policies require *any* specific level of net gain. This means that there would be no conflict with policy if as little as 1% net gain (or anything above zero) were proposed to be delivered.
46. Similarly, if as little as 1% net gain, or indeed none at all, were proposed to be delivered, there would be no conflict with current legislative requirements as none currently apply.

47. Accordingly, *all* of the net gain being delivered (above the fact that it is merely positive and above zero) is a clear benefit of the proposal which goes beyond any policy or legislative requirements. And the fact that there may be future legislative requirements that may require such benefits of *other cases* is no rational basis for reducing the weight to accord to that benefit *in this case*.
48. The Inspector's reliance on there being a requirement to demonstrate a level ('some') of biodiversity net gain was an error of law. He was under the erroneous impression that the future legislative requirement for 10% net gain was relevant to a planning permission granted now (presumably because he wrongly considered it would apply retrospectively). On this basis he reduced the weight to be accorded to the significant proposed net gain (DL para 195).
49. The issue of the weight to be accorded to this factor as a vsc was a matter in dispute between the parties (see SCG para 8.1, proof of Mr Toland paras 10.5.7 – 10.5.9 and 11.1.16 – 11.1.17; summary proof of Mr Whitehouse para 5.4), but no-one was relying on any future legislative requirement as a basis for reducing the weight to be accorded to the level of net gain proposed now.
50. Given that the Inspector expresses his decision to be 'very finely balanced' (DL para 200), there is at least a reasonable prospect that his error may have materially affected the outcome. It is certainly not inevitable that his decision would have been the same absent the error. Accordingly, this error alone justifies a quashing order.

Ground (2) – Breach of s.38(6)

51. As established by extensive case law (some of which is set out above), proper exercise of the duty under s.38(6) entails:
- recognising that the starting point is that the development plan has statutory priority;
 - ensuring that the relevant development plan policies are correctly understood and applied;

- determining whether or not there is accordance with the development plan as a whole;
- if there is not such accordance, proceeding on a correct understanding of the nature and extent of the conflict with the development plan

52. The Inspector has acted in breach of his duty under s.38(6) in the following respects:

- failure to have any regard *at all* to a key relevant policy, namely Policy MLP 7, a policy which was agreed to be relevant in the SCG;
- failure to assess the proposal against another key relevant policy, namely Policy MLP 11, (referenced at DL23);
- failure to determine whether or not the proposal is in accordance with the development plan as a whole;
- failure to understand the nature and extent of accordance or conflict with the development plan as a whole.

53. These are material errors. Along with policies MLP 1(Spatial Strategy) and MLP 3 (Strategic Locations of Development – Areas of Search and Windfall Sites within Strategic Corridors), policies MLP 7(Green Infrastructure) and MLP 11(North West Worcestershire Strategic Corridor) are key policies that are potentially in support of the proposed development. They are specifically applicable to the Development in this location and they focus on whether, and the extent to which, specific green infrastructure priorities will be delivered. They advise that proposals which meet the priorities set out should be supported. In light of the green infrastructure proposed in this case, it is likely that the Development would be in compliance with both MLP 7 and MLP 11 but the Inspector has failed to make this determination. He failed to address *at all* how the proposal fared against the policy tests. He has thus failed to take into account highly material considerations, in the form of potentially supportive parts of the statutory development plan. He has also failed to understand the nature or extent of the accordance or conflict with the development plan as a whole. These errors are alone sufficient to justify a quashing order.

54. The Inspector has also failed to determine *at all* whether or not the proposal is in accordance with the development plan as a whole. Setting aside for a moment that he has omitted to consider some policies which are likely to be supportive (see above), he found compliance with the vast majority of applicable development plan policies. The only conflict related to his determination that the proposal was inappropriate in the Green Belt and that (on a 'very finely balanced' decision – see DL200), the harm by reason of inappropriateness as a consequence of the loss of openness is not clearly outweighed by other considerations such that there are thus not vsc to outweigh the harm.
55. Whilst in some cases it may be obvious or implicit (such that it does not need to be expressly stated) that a conflict with Green Belt policy amounts to a determination of a conflict with the development plan as a whole, there is a danger to applying that approach here. First, it risks unlawfully elevating government policy (which stresses the importance of Green Belts) above the statutory development plan. Second, in this case there are clear, directly applicable, development plan policies which support the proposal in this strategic location (MLP 1 and 3); there are clear, directly applicable, development plan policies which support the specifics of the proposal in the context of its contribution to need and to the aggregates landbank (MLP 14 and 15); there are clear, directly applicable policies which support a proposal which delivers on priority green infrastructure considerations (MLP 7 and 11). Therefore, whilst the Green Belt policy may weigh against the grant of permission, there are a number of other directly applicable policies which specifically support the grant of permission for the Development (in addition to many others which are generally supportive or not in conflict). In other words, the policies 'pull in different directions' and it was incumbent on the Inspector to direct his mind to this and to determine which policy compliances / conflicts took precedence in terms of his judgement as to weight so as to determine whether or not, as a whole, there was compliance or conflict.
56. In any response to this point it would not be sufficient to say that the overall balance was effectively determined by the Inspector's consideration of whether there were very special circumstances to outweigh Green Belt harm. This is because that balancing exercise left out consideration of matters of statutory priority: First, the compliances

with policies MLP 1, 3, 7 and 11 were left out of that exercise entirely, such that neither the relevant substantive issues nor their statutory priority as part of the development plan were included anywhere in the balance. Second, whilst issues relating to compliance with other aspects of development plan policy *were* included as part of the vsc balancing exercise (such as, for example, the weight accorded to the supply /need for the aggregate – relevant to MLP 14 and 15 – see DL197), the fact that such issues had particular development plan status (and so statutory priority as a starting point) was left out of account in the vsc exercise. This might not have mattered if the Inspector had also turned his mind to the s.38(6) duty (whether there was compliance with the development plan) but it certainly cannot be argued that the vsc balancing exercise was an effective proxy or substitute for proper fulfilment of that duty.

57. The failure to make an effective determination under s.38(6) in this way constitutes a further error of law justifying the quashing of the decision.

Ground (3) – Failure to take into account material considerations

58. In considering very special circumstances, the Inspector omitted to take into account two material factors put forward by the Claimant and responded to by the Council.

59. The Inspector failed to take into account the benefits put forward by Mr Toland relating to the national socio economic benefits of the scheme, including through business rates, aggregate levy, use of suppliers and positive indirect on the job market (see paragraph 4.1.1 (3) and section 10.4 of Mr Toland’s proof).

60. These benefits have policy support in the NPPF (at paras 81 and 211), which advocate that ‘significant’ and ‘great’ weight should be attributed to them. The Inspector ignored them completely, instead focussing only on what he considered to be the direct, local economic benefits of the scheme, which he accorded only moderate weight (DL 171 and 192). He failed to have regard to the above Government policy which supports economic growth generally, and in particular benefits to the economy arising from minerals development (with no restriction in terms of locality). Alternatively he misinterpreted that policy as being confined only to local economic benefits. And in

any event he failed to have regard to the fact that business rates contribute (at least in part) to the local, as opposed to national, economy (as part are retained locally).

61. Additionally, the Inspector failed to take into account as part of the vsc case the sustainability benefits arising from the location and geographical spread (set out in paragraph 10.3 of Mr Toland's proof, para 5.3 of Mr Whitehouse's summary proof and largely agreed at para 7.8 of the SCG).

62. In a finely balanced decision, these additional factors could have made all the difference and it was incumbent on the Inspector to have regard to them (in the sense that the only rational approach was to take into account all the matters that had been put forward as vsc, either by attributing weight to them or by explaining why no weight should be attributed to them).

63. This is a further error which alone justifies a quashing order.

Conclusion

64. On all or any of the above grounds, it is at least arguable that the Inspector's decision was in error and is vulnerable to quashing. Accordingly, the Claimant seeks permission to proceed with the statutory review and in due course will be seeking a quashing order with costs.

14 June 2023

JENNY WIGLEY KC

Landmark Chambers

Acknowledgment of Service (Part 8 claim)

You should read the 'notes for defendant' attached to the claim form which will tell you how to complete this form, and when and where to send it.

Name of court

High Court (KB), Birmingham DR, Planning Court in the Administrative Court

Claim number

CO/2189/2023

Name of claimant (including any reference)

NRS Saredon Aggregates Limited

Name of defendant (including any reference)

The Secretary of State for Levelling Up, Housing & Communities (1)
Worcestershire County Council (2)

Tick and complete sections A - E as appropriate.
In all cases you must complete sections F and G

Section A

I do not intend to contest this claim

Give details of any order, direction, etc. you are seeking from the court.

Section B

I intend to contest this claim

Give brief details of any different remedy you are seeking.

Section C

- I intend to dispute the court's jurisdiction
(Please note, any application must be filed within 14 days of the date on which you file this acknowledgment of service)

Section D

- I object to the claimant issuing under this procedure

My reasons for objecting are:

Section E

- I intend to rely on written evidence

My written evidence:

- is filed with this form
 will be filed within 14 days

Section F

Full name of defendant filing this acknowledgment

Section G

Statement of Truth

I understand that proceedings for contempt of court may be brought against a person who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

- I believe that the facts stated in this section and any continuation sheets are true.
- The defendant believes that the facts stated in this section and any continuation sheets are true. I am authorised by the defendant to sign this statement.

Signature

- Defendant
- Litigation friend (where judgment creditor is a child or a protected party)
- Defendant's legal representative (as defined by CPR 2.3(1))

Date

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Full name

Name of legal representative's firm

If signing on behalf of firm or company give position or office held

Defendant's or defendant's legal representative's address to which documents should be sent.

Building and street

Second line of address

Town or city

County (optional)

Postcode

If applicable

Phone number

DX number

Your Ref.

Email

IN THE HIGH COURT OF JUSTICE

ADMINISTRATIVE COURT REF:

KINGS BENCH DIVISION

PLANNING COURT

IN AN APPLICATION FOR PLANNING STATUTORY REVIEW UNDER SECTION 288 OF THE
TOWN AND COUNTRY PLANNING ACT 1990

BETWEEN:

NRS SAREDON AGGREGATES LIMITED (Claimant)

-v-

THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES
(First Defendant)

WORCESTERSHIRE COUNTY COUNCIL (Second Defendant)

&

STOP THE QUARRY CAMPAIGN (interested Party)

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IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

IN AN APPLICATION FOR PLANNING STATUTORY REVIEW UNDER SECTION 288
OF THE TOWN AND COUNTRY PLANNING ACT 1990

BETWEEN:

NRS SAREDON AGGREGATES LIMITED

Claimant

-and-

(1)THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES

(2) WORCESTERSHIRE COUNTY COUNCIL

Defendants

-and-

STOP THE QUARRY CAMPAIGN

Interested Party

STATEMENT OF FACTS AND GROUNDS

References (DL/xx) are to paragraphs in the Inspector's decision letter.

Recommended Essential Reading:

- the Inspector's decision letter

- policies MLP1, MLP3, MLP7, MLP11, MLP14, MLP15, MLP27 and MLP31 of the *Worcestershire Minerals Local Plan*

- *NPPF extracts*

- *Statement of Common Ground*

- *extracts from the proof of Mr Toland*

Introduction

1. This is an application for planning statutory review brought under section 288 of the Town and Country Planning Act 1990 (“TCPA1990”) by NRS Saredon Aggregates Limited (the “Claimant”) against the decision dated 5 May 2023 of the First Defendant, the Secretary of State for Levelling Up, Housing and Communities (“the SoS”) dismissing an appeal under section 78 TCPA 1990 by the Claimant against the refusal of the Second Defendant, Worcestershire County Council (the “Council”) to grant planning permission for a sand and gravel quarry (the “Development”) at Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire (the “Site”).
2. The Interested Party, ‘Stop the Quarry’ is a local residents’ association who participated in the appeal.

Summary Grounds of Challenge

3. In summary, the challenge is brought on three grounds (set out in more detail below):
 - (1) Error of law in relation to biodiversity net gain;
 - (2) Breach of s.38(6) of the 2004 Act by (i) failure to have regard to two important policies; (ii) failure to recognise the statutory priority of the development plan; (iii) failure to determine whether the proposal complies with the development plan as a whole; and (iii) failure to understand the nature and degree of compliance or conflict with the development plan.

- (3) Failure to take into account two material factors (economic benefits and locational sustainability benefits), that had been put forward as very special circumstances to justify any potential Green Belt harm.

Factual Background

4. The Site is within the North West Worcestershire Strategic Corridor as defined within the Worcestershire Minerals Local Plan (“MLP”). The Site is also within the Green Belt. The Proposal is for phased extraction of approximately 3 million tonnes of sand and gravel over a period of around 10 to 11 years, with a progressive restoration scheme including the creation of new agricultural parkland, new rights of way and native woodland areas.
5. The Claimant’s appeal against the Council’s refusal of planning permission was heard by a planning inspector appointed by the First Defendant who held a public inquiry lasting eight days. The Council and the First Defendant agreed a revised Statement of Common Ground (“SCG”) which was submitted to the inquiry (as Core Document 13.27).
6. Of particular relevance to this Claim, the following matters were agreed as part of the SCG:

Restoration and Green Infrastructure

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

“The proposed restoration scheme includes the creation of a new agricultural parkland, providing approximately 2.7 kilometres of new public bridleways and permissive bridleways and 5 pocket parks. Native woodland blocks would be

re-established to reflect previous historic land uses (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439 metres of hedgerows would be strengthened, approximately 579 metres of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees reinstating the historic avenue of trees along bridleways WC-625 and WC-626.” (SCG, para 3.8)

Sustainability

“When looking at the supply of mineral within a county a balanced spread of geographical location supply sources is very important in promoting sustainable development. Aggregates being bulky in nature, costly to transport / typically only transported about 30 miles from source. The closest county sand and gravel quarry to Kidderminster is Clifton Quarry, located circa. 24 miles away. It is agreed that the Appeal Proposal would help provide a balanced geographical spread of mineral supply sources.” (SCG para 7.8)

Biodiversity

“It is agreed that the submitted Restoration Plan and scheme outlined within the Environmental Statement provides a Biodiversity Net Gain of approximately 39.1% against the Metric 3.1 Baseline as calculated within the additional assessment provided under Regulation 25 in January 2023. The restoration was calculated as providing 87.21% Biodiversity Net Gain against the Metric 2.0 Baseline within the original assessment informing the Environmental Statement.” (SCG, para 7.20)

7. At paragraph 5.5 of the SCG, the parties identified the development plan policies considered relevant to the Appeal. These included Policy MLP 7 which is not referred to in the decision letter.

8. At paragraph 8.1 of the SCG, the matters on which the parties disagree are identified. The only development plan policies over which there was stated to be disagreement as to whether there was accord or not were the Green Belt policies, namely Policy MLP 27 of the Minerals Local Plan, Policy WCS 13 of the Waste Core Strategy and Policy DM22 of the Wyre Forest District Council Local Plan.
9. The SCG also identified as a matter in dispute the weight to be ascribed to the biodiversity net gain benefit in the balance (para 8.1).
10. In section 10 of his proof of evidence to the inquiry, the Claimant's planning expert witness, Liam Toland, set his evidence as to what would constitute 'very special circumstances' ("vsc") that would justify the Development in the Green Belt if it were considered to be 'inappropriate' development in the Green Belt. One of these was the geographical spread of resources, including:
 - the unique logistical position of the Site in the marketplace, which affects the distance needed to travel to market as well as the demand for resources from outside the county to meet the demand;
 - the importance of the geographic location of the site in terms of contributing to a geographic spread of supply which is very important in promoting sustainable development; (proof, para 10.3.1)
11. Mr Toland also relied on biodiversity as a vsc and stated that he considered that the biodiversity net gain of the scheme is a 'major benefit' adding 'significant weight' in favour of the proposal (see paras 10.5.7 – 10.5.9 and paras 11.1.16, 11.1.17 and Appendix 4).
12. He also relied on economic and growth issues, both national and local, and attributed significant weight to this as a vsc (proof section 10.4).
13. In paragraph 5.4 of his summary proof of evidence to the inquiry, the Council's planning witness, Christopher Whitehouse, considered that "the scheme would have some substantial benefits for biodiversity in the long term, subject to a number of high risk

aspects of the restoration scheme being successful delivered across the long term; the risks of which limit the benefits to moderate in the planning balance”.

14. As to the geographical spread of resources, he stated at paragraph 5.3: “Whilst the geographical spread of resources is a benefit, there is not an acute issue for location of supply as a proportion of the landbank available. As such, moderate weight is applied to the consideration.”
15. As to the economy, Mr Whitehouse stated at paragraph 5.4: “Employment provision and other operational aspects of the development would make a moderate but nonetheless significant contribution to the economy”.
16. After a public inquiry lasting eight days, the Inspector set out his conclusions in his decision letter (which should be read as a whole and in full). He concluded in favour of the Development in relation to amenity, living condition and health (noise, dust, air quality), landscape and visual considerations, highways and public rights of way (DL188 to 189).
17. He found that the Development would accord with, or not conflict with, all development plan policies save for:
 - MLP 27, WSC 13, DM.22, relating to Green Belt; and
 - MLP Policies 7 and 11, which he failed to address.
18. He gave full consideration to a number of issues that remained in dispute with the rule 6 party and he made the following key findings in his decision letter (“DL”):
 - no significant adverse effect on the amenity of the area or the living conditions and health of those living nearby or using recreational features, (DL119);
 - no significant adverse effect on the character or appearance of the site and surrounding landscape and no significant adverse effect on visual receptors (DL131);

- overall the landscape restoration scheme will deliver landscape benefits which should be afforded moderate weight in the planning balance (DL129 to 130);
- no severe residual cumulative impact on the road network and nothing more than a negligible increased risk to highway safety (DL149 – 150, 189);
- minor impact on the views from users of the public right of way network, to be afforded limited weight in the planning balance (DL136 & 189);
- perception of harm to the local economy, to be afforded limited weight;
- less than substantial harm to the setting of a heritage asset; but benefits found to outweigh that harm (DL164 – 166);
- the proposal would make a notable contribution to the supply of needed minerals, a matter of substantial significance that should be given great weight (DL50 and DL191);
- the economic benefits of the proposed development, including the provision of a minimum of 11 full time jobs would make a modest contribution to the local economy, such benefits to be afforded moderate weight (DL192);
- biodiversity net gain of nearly 4 times that required by forthcoming legislation. As some of that 'is required to meet national policy and future legislative requirements' in order to mitigate the environmental impact of the development, such enhancements should be afforded only moderate weight (DL195);
- the landscape benefits of the restoration scheme should be accorded moderate weight (DL129 – 130 & 194)
- the proposed additions to the public rights of way network would offer a benefit of minor significance, which should be given slight weight in the planning balance (DL137 & 194)
- the appeal site and its immediate environs will soon likely form the remaining area of Green Belt between settlements and so has spatial importance. The appeal site plays an extremely important Green Belt role (DL59 & 60).
- the proposal constitutes mineral extraction and engineering operations under paragraph 150 of the NPPF. The plant, equipment, buildings and access and

activity associated with mineral extraction would, to some extent impair the openness of the area but this alone would not exceed the threshold or 'tipping point' of appropriate minerals development. However, the soil and overburden storage bunds would have a greater adverse impact on the openness of the Green Belt. Whilst the adverse effect of the bunds on openness would be fully reversible over time, their length, height and duration 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 and visual adverse effect on the openness of the Green Belt. This means that the appeal scheme would not preserve the openness of the Green Belt and consequently the exception for mineral extraction in the Green Belt would not apply and the proposal would be inappropriate development which is by definition harmful.

- not possible to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m³ 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 (DL199).

19. The Inspector's decision to dismiss the appeal was based wholly on his consideration of whether or not there were very special circumstances to outweigh Green Belt harm and was 'very finely balanced' (DL200).

Legal Propositions

Challenges to Inspectors' Decisions

20. The principles that apply when challenging an inspector's decision letter are well established (see *East Staffordshire BC v SSCLG* [2018] PTSR 88 at para. 50; and *St Modwen v SSCLG* [2017] EWCA Civ 1643 at para. 7). In essence, Inspectors' decision letters are to be construed benevolently and as a whole, in a reasonably

flexible way. They are written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues (see Forbes J. in Seddon Properties v Secretary of State for the Environment (1981) 42 P. & C.R. 26, at p. 28). An adverse inference that a decision-maker has misunderstood something or failed to have regard to it will not readily be drawn. However, where an inspector makes a material error, such as failing to have regard to a relevant material consideration, that will be an error of law capable of vitiating his decision (see Tesco Stores v Secretary of State for Environment [1995] 1 WLR 759 per Lord Hoffman at para. 57).

Determination of Planning Applications

21. In determining planning applications and appeals, the decision-maker must have regard to provisions of the development plan so far as material and must decide applications in accordance with the development plan unless material considerations indicate otherwise (section 70(2) TCPA and section 38(6) Planning and Compulsory Purchase Act 2004 ("2004 Act")).

22. This means that whilst the assessment of the facts and the weighing of the considerations is in the hands of the decision maker, the development plan has a statutory priority which must be recognised by the decision maker (see City of Edinburgh Council v. Secretary of Scotland [1997] 1 WLR 1447, at 1458). The principles City of Edinburgh were summarised by HH Judge Mackie in South Northamptonshire Council v. SSCLG [2013] EWHC 11 (at para 20):

"I conclude from all this that [section 38(6)] requires not a simple weighing up of the requirement of the plan against the material considerations but an exercise that recognises that while material considerations may outweigh the requirements of a development plan, the starting point is the plan which receives priority. The scales do not start off in even balance."

23. There is significant recent caselaw as to the s.38(6) duty (some of which is set out below). It is well established that a key component of the duty is that the decision maker must establish whether or not the proposal accords with the development plan as a whole.
24. The Court of Appeal in *R (oao Wyatt) v. Fareham BC* ([2022] EWCA Civ 983, [2023] Env. LR 14) stated as follows:

“79. This provision [s.38(6) of the 2004 Act] and its predecessor, section 54A of the Town and Country Planning Act 1990, are the subject of ample authority, including several decisions at the highest level and in this court. The relevant principles do not need to be set out at length yet again. They have been stated and restated many times (see, for example, the decision of this court in *Secretary of State for Communities and Local Government v BDW Trading Ltd. (trading as David Wilson Homes (Central, Mercia and West Midlands))* [2017] PTSR 1357, at paragraphs 19 to 23). A decision-maker must always heed the statutory priority given to the development plan, but is free to assess what weight to give to its policies and to all other material considerations in deciding whether the decision should be made, as the statute presumes, in accordance with the plan (see the speech of Lord Clyde in *City of Edinburgh v Secretary of State for Scotland* [1997] 1 W.L.R. 1447, at pp.1458 and 1459). If the decision-maker fails to have regard to a relevant policy in the plan or to interpret it properly, conscious that relevant policies in the plan may pull in different directions, the court can act (Lord Clyde's speech in *City of Edinburgh*, at p.1459D-F, and the judgments of Lord Reed and Lord Hope of Craighead in *Tesco Stores Ltd. v Dundee City Council* [2012] PTSR 983, at paragraphs 19 and 34 respectively). But there is no prescribed method for discharging the section 38(6) duty, such as a two-stage approach. This is left to the decision-maker's good sense in the particular circumstances of the case in hand (Lord Clyde's speech in *City of Edinburgh*, at pp.1459 and 1460).

80. In *R. (on the application of Hampton Bishop Parish Council) v Herefordshire Council* [2014] EWCA Civ 878, Lord Justice Richards said (in paragraph 28) that “[it] is up to the decision-maker how precisely to go about the task, but if he is to

act within his powers and in particular to comply with the statutory duty to make the determination in accordance with the development plan unless material considerations indicate otherwise, he must as a general rule decide at some stage in the exercise whether the proposed development does or does not accord with the development plan". As Mrs Justice Patterson emphasised in *Tiviot Way Investments Ltd. v Secretary of State for Communities and Local Government [2015] EWHC SS2489 (Admin) (at paragraphs 27 to 36)*, with the later endorsement of this court in *BDW Trading Ltd.* (at paragraph 21), the decision-maker must ascertain whether there is compliance or conflict with the development plan "as a whole".

25. In *SSCLG v. BDW Trading Ltd* ([2016] EWCA Civ 493), Lindblom LJ set out the relevant principles as follows:

"20. Without seeking to be exhaustive, I think there are five things one can fairly say in the light of the authorities.

21. First, the section 38(6) duty is a duty to make a decision (or "determination") by giving the development plan priority, but weighing all other material considerations in the balance to establish whether the decision should be made, as the statute presumes, in accordance with the plan (see Lord Clyde's speech in *City of Edinburgh Council*, at p.1458D to p.1459A, and p.1459D-G). Secondly, therefore, the decision-maker must understand the relevant provisions of the plan, recognizing that they may sometimes pull in different directions (see Lord Clyde's speech in *City of Edinburgh Council*, at p.1459D-F, the judgments of Lord Reed and Lord Hope in *Tesco Stores Ltd. v Dundee City Council [2012] UKSC 13*, respectively at paragraphs 19 and 34, and the judgment of Sullivan J., as he then was, in *R. v Rochdale Metropolitan Borough Council, ex p. Milne [2001] J.P.L. 470*, at paragraphs 48 to 50). Thirdly, section 38(6) does not prescribe the way in which the decision-maker is to go about discharging the duty. It does not specify, for all cases, a two-stage exercise, in which, first, the decision-maker decides "whether the development plan should or should not be accorded its statutory priority", and secondly, "if he decides that it should not be given that priority it should be put aside and attention concentrated upon the material factors which

remain for consideration” (see Lord Clyde's speech in *City of Edinburgh Council* , at p.1459H to p.1460D). Fourthly, however, the duty can only be properly performed if the decision-maker, in the course of making the decision, establishes whether or not the proposal accords with the development plan as a whole (see the judgment of Richards L.J. in *R. (on the application of Hampton Bishop Parish Council) v Herefordshire Council* [2014] *EWCA Civ 878* , at paragraph 28, and the judgment of Patterson J. in *Tiviot Way Investments Ltd. v Secretary of State for Communities and Local Government* [2015] *EWHC 2489 (Admin)* , at paragraphs 27 to 36). And fifthly, the duty under section 38(6) is not displaced or modified by government policy in the NPPF. Such policy does not have the force of statute. Nor does it have the same status in the statutory scheme as the development plan. Under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, its relevance to a planning decision is as one of the other material considerations to be weighed in the balance (see the judgment of Richards L.J. in *Hampton Bishop Parish Council* , at paragraph 30).”

26. In order to consider on a proper basis whether a departure from the development plan is justified by other material considerations, it is necessary to understand the nature and extent of the departure from the plan (per Lord Reed in *Tesco Stores Ltd v Dundee City Council* [2012] 2 P. & C. R. at paragraph 22).

Biodiversity Net Gain

27. Section 98 and Schedule 14 of the Environment Act 2021 are not yet in force. They make provision for new provisions (s.90A and Schedule 7A) to be inserted in the TCPA 1990 to make grants of planning permission “to be subject to a condition that the biodiversity gain objective is met.”
28. Paragraph 2(1) of Schedule 7A (which is to be inserted in the TCPA 1990) provides that: “the biodiversity gain objective is met in relation to development for which planning permission is granted if the biodiversity value attributable to the development

exceeds the pre-development biodiversity value of the onsite habitat by at least the relevant percentage.”

29. Under paragraph 2(3) of Schedule 7A (which is to be inserted in the TCPA 1990), “the relevant percentage is 10%”.

30. As already mentioned, these legal requirements are not yet in force. It is Government’s intention that the mandatory biodiversity net gain requirement for development requiring planning permission under the TCPA 1990 will commence for new applications from November 2023, that is 2 years after royal assent of the Environment Act, which was achieved in November 2021 (see p.15 of the January 2022 Consultation on Biodiversity Net Gain Regulations and Implementation). There has never been any expressed intention by Government that these legal requirements might apply retrospectively to planning permissions granted before they came into force.

31. Under the common law, there is a presumption against legislative changes applying retrospectively:

“The general rule, applicable in most modern legal systems, is that legislative changes apply prospectively. Under English law, for example, unless a contrary intention appears, an enactment is presumed not to be intended to have retrospective effect. The logic behind this principle is explained in *Bennion on Statutory Interpretation*, 6th ed (2013), Comment on Code section 97:

“If we do something today, we feel that the law applying to it should be the law in force today, not tomorrow’s backward adjustment of it. Such, we believe, is the nature of law.’... those who have arranged their affairs... in reliance on a decision which has stood for many years should not find that their plans have been retrospectively upset. ”

(per Lord Kerr, at para 22 in *Walker v. Inmospec Limited* ([2017] UKSC 47))

Development Plan Policy Relevant to the Grounds of Claim

32. The Worcestershire Minerals Local Plan (2018 – 2036) (“MLP”) (relevant extracts in the Claim Bundle) forms part of the statutory development for the purposes of s.38(6) of the 2004 Act.
33. As summarised in paragraphs 21 to 25 of the DL, there are a number of strategic policies in the MLP which support sand and gravel development in one of the ‘strategic corridors’ (Policies MLP 1, MLP 3). Additionally, there is development plan policy support for development which contributes to maintaining a landbank of productive capacity for sand and gravel and which contribute to delivering a steady and adequate supply (Policies MLP 14 and MLP 15).
34. Policies MLP 7 (Green Infrastructure) states that 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. Policy MLP 11 (North West Worcestershire Strategic Corridor) states that, amongst other matters, 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. It further sets out a number of green infrastructure priorities that will be required to be delivered at each stage of a mineral site’s life.
35. Policy MLP 27 (Green Belt) sets out that mineral extraction and/or engineering operations within the Green Belt will be supported where it can be demonstrated that, throughout its lifetime, the mineral extraction and/or engineering operations will preserve the openness of the Green Belt and not conflict with the purposes of including land within it. It further sets out that where any aspect of the proposed development is inappropriate in the Green Belt, including mineral extraction and/or engineering operations, that cannot satisfy the above tests, 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. As will not normally be supported elsewhere in the county.

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36. Policy MLP 31 (Biodiversity) states that, among other things, planning permission will be granted where it is demonstrated that the proposed mineral development will conserve, enhance and deliver net gains for biodiversity.

National Planning Policy Framework

37. The National Planning Policy Framework (“NPPF”) is an important material consideration in planning determinations. Policies relevant to the grounds of claim are as follows:

38. Green Belt policy is set out in section 13 of the NPPF with the main parts being paragraphs 137 – 138 and 147 - 150.

39. Policy relating to conserving and enhancing the natural environment is set out in section 15 of the NPPF. Paragraph 174(d) states:

“Planning policies and decisions should contribute to and enhance the natural and local environment by:

(d) minimising impacts on and providing net gains for biodiversity,…”

40. Policy relating to ‘Facilitating the sustainable use of minerals’ is set out in section 17 of the NPPF (at paragraphs 209 to 214). At paragraph 211 it states: “when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.”

41. Policy relating to “Building a strong, competitive economy” is set out in section 6 of the NPPF (at paragraphs 81 to 85). It states that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”.

Grounds of Challenge

Ground (1) Error of Law in relation to Biodiversity Net Gain

42. The Inspector accepted that the proposal would deliver significant biodiversity net gain at more than 39% for habitats and more than 100% for hedgerows. He noted that “the net gain would be nearly 4 times that required by forthcoming legislation” but afforded these enhancements only moderate weight on the basis that “some of the 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.”
43. This is an error in the Inspector’s reasoning because there is of course no *requirement* to meet *future* legislative requirements. It was an error of law for the Inspector to rely on the proposition that some of the net gain that would be achieved is required to meet future legislative requirements.
44. Under s.98 of the Environment Act 2021, Schedule 14 will introduce new provisions into the TCPA 1990 (new s.90A and Schedule 7A) which will make it a condition of all new planning permissions to deliver and maintain at least 10% biodiversity net gain. However, none of this is yet in force. Government has indicated that this will come into force in November 2023 but this will not be a retrospective requirement and so would not affect a planning permission granted now (see above re Government’s intention as expressed in its consultation document and see the common law presumption against retrospective effect, set out under the legal propositions section above).
45. As to national policy requirements, there is a requirement for mineral extraction restoration to be carried out to high environmental standards (NPPF para 211(e)) and the NPPF requires biodiversity net gain (see NPPF para 174(d) and 180(d)). Similarly, development plan policy MLP 31 requires biodiversity net gain in general terms. However, unlike the future legislative provisions, none of the policies require *any* specific level of net gain. This means that there would be no conflict with policy if as little as 1% net gain (or anything above zero) were proposed to be delivered.
46. Similarly, if as little as 1% net gain, or indeed none at all, were proposed to be delivered, there would be no conflict with current legislative requirements as none currently apply.

47. Accordingly, *all* of the net gain being delivered (above the fact that it is merely positive and above zero) is a clear benefit of the proposal which goes beyond any policy or legislative requirements. And the fact that there may be future legislative requirements that may require such benefits of *other cases* is no rational basis for reducing the weight to accord to that benefit *in this case*.
48. The Inspector's reliance on there being a requirement to demonstrate a level ('some') of biodiversity net gain was an error of law. He was under the erroneous impression that the future legislative requirement for 10% net gain was relevant to a planning permission granted now (presumably because he wrongly considered it would apply retrospectively). On this basis he reduced the weight to be accorded to the significant proposed net gain (DL para 195).
49. The issue of the weight to be accorded to this factor as a vsc was a matter in dispute between the parties (see SCG para 8.1, proof of Mr Toland paras 10.5.7 – 10.5.9 and 11.1.16 – 11.1.17; summary proof of Mr Whitehouse para 5.4), but no-one was relying on any future legislative requirement as a basis for reducing the weight to be accorded to the level of net gain proposed now.
50. Given that the Inspector expresses his decision to be 'very finely balanced' (DL para 200), there is at least a reasonable prospect that his error may have materially affected the outcome. It is certainly not inevitable that his decision would have been the same absent the error. Accordingly, this error alone justifies a quashing order.

Ground (2) – Breach of s.38(6)

51. As established by extensive case law (some of which is set out above), proper exercise of the duty under s.38(6) entails:
- recognising that the starting point is that the development plan has statutory priority;
 - ensuring that the relevant development plan policies are correctly understood and applied;

- determining whether or not there is accordance with the development plan as a whole;
- if there is not such accordance, proceeding on a correct understanding of the nature and extent of the conflict with the development plan

52. The Inspector has acted in breach of his duty under s.38(6) in the following respects:

- failure to have any regard *at all* to a key relevant policy, namely Policy MLP 7, a policy which was agreed to be relevant in the SCG;
- failure to assess the proposal against another key relevant policy, namely Policy MLP 11, (referenced at DL23);
- failure to determine whether or not the proposal is in accordance with the development plan as a whole;
- failure to understand the nature and extent of accordance or conflict with the development plan as a whole.

53. These are material errors. Along with policies MLP 1(Spatial Strategy) and MLP 3 (Strategic Locations of Development – Areas of Search and Windfall Sites within Strategic Corridors), policies MLP 7(Green Infrastructure) and MLP 11(North West Worcestershire Strategic Corridor) are key policies that are potentially in support of the proposed development. They are specifically applicable to the Development in this location and they focus on whether, and the extent to which, specific green infrastructure priorities will be delivered. They advise that proposals which meet the priorities set out should be supported. In light of the green infrastructure proposed in this case, it is likely that the Development would be in compliance with both MLP 7 and MLP 11 but the Inspector has failed to make this determination. He failed to address *at all* how the proposal fared against the policy tests. He has thus failed to take into account highly material considerations, in the form of potentially supportive parts of the statutory development plan. He has also failed to understand the nature or extent of the accordance or conflict with the development plan as a whole. These errors are alone sufficient to justify a quashing order.

54. The Inspector has also failed to determine *at all* whether or not the proposal is in accordance with the development plan as a whole. Setting aside for a moment that he has omitted to consider some policies which are likely to be supportive (see above), he found compliance with the vast majority of applicable development plan policies. The only conflict related to his determination that the proposal was inappropriate in the Green Belt and that (on a 'very finely balanced' decision – see DL200), the harm by reason of inappropriateness as a consequence of the loss of openness is not clearly outweighed by other considerations such that there are thus not vsc to outweigh the harm.

55. Whilst in some cases it may be obvious or implicit (such that it does not need to be expressly stated) that a conflict with Green Belt policy amounts to a determination of a conflict with the development plan as a whole, there is a danger to applying that approach here. First, it risks unlawfully elevating government policy (which stresses the importance of Green Belts) above the statutory development plan. Second, in this case there are clear, directly applicable, development plan policies which support the proposal in this strategic location (MLP 1 and 3); there are clear, directly applicable, development plan policies which support the specifics of the proposal in the context of its contribution to need and to the aggregates landbank (MLP 14 and 15); there are clear, directly applicable policies which support a proposal which delivers on priority green infrastructure considerations (MLP 7 and 11). Therefore, whilst the Green Belt policy may weigh against the grant of permission, there are a number of other directly applicable policies which specifically support the grant of permission for the Development (in addition to many others which are generally supportive or not in conflict). In other words, the policies 'pull in different directions' and it was incumbent on the Inspector to direct his mind to this and to determine which policy compliances / conflicts took precedence in terms of his judgement as to weight so as to determine whether or not, as a whole, there was compliance or conflict.

56. In any response to this point it would not be sufficient to say that the overall balance was effectively determined by the Inspector's consideration of whether there were very special circumstances to outweigh Green Belt harm. This is because that balancing exercise left out consideration of matters of statutory priority: First, the compliances

with policies MLP 1, 3, 7 and 11 were left out of that exercise entirely, such that neither the relevant substantive issues nor their statutory priority as part of the development plan were included anywhere in the balance. Second, whilst issues relating to compliance with other aspects of development plan policy *were* included as part of the vsc balancing exercise (such as, for example, the weight accorded to the supply /need for the aggregate – relevant to MLP 14 and 15 – see DL197), the fact that such issues had particular development plan status (and so statutory priority as a starting point) was left out of account in the vsc exercise. This might not have mattered if the Inspector had also turned his mind to the s.38(6) duty (whether there was compliance with the development plan) but it certainly cannot be argued that the vsc balancing exercise was an effective proxy or substitute for proper fulfilment of that duty.

57. The failure to make an effective determination under s.38(6) in this way constitutes a further error of law justifying the quashing of the decision.

Ground (3) – Failure to take into account material considerations

58. In considering very special circumstances, the Inspector omitted to take into account two material factors put forward by the Claimant and responded to by the Council.

59. The Inspector failed to take into account the benefits put forward by Mr Toland relating to the national socio economic benefits of the scheme, including through business rates, aggregate levy, use of suppliers and positive indirect on the job market (see paragraph 4.1.1 (3) and section 10.4 of Mr Toland's proof).

60. These benefits have policy support in the NPPF (at paras 81 and 211), which advocate that 'significant' and 'great' weight should be attributed to them. The Inspector ignored them completely, instead focussing only on what he considered to be the direct, local economic benefits of the scheme, which he accorded only moderate weight (DL 171 and 192). He failed to have regard to the above Government policy which supports economic growth generally, and in particular benefits to the economy arising from minerals development (with no restriction in terms of locality). Alternatively he misinterpreted that policy as being confined only to local economic benefits. And in

any event he failed to have regard to the fact that business rates contribute (at least in part) to the local, as opposed to national, economy (as part are retained locally).

61. Additionally, the Inspector failed to take into account as part of the vsc case the sustainability benefits arising from the location and geographical spread (set out in paragraph 10.3 of Mr Toland's proof, para 5.3 of Mr Whitehouse's summary proof and largely agreed at para 7.8 of the SCG).

62. In a finely balanced decision, these additional factors could have made all the difference and it was incumbent on the Inspector to have regard to them (in the sense that the only rational approach was to take into account all the matters that had been put forward as vsc, either by attributing weight to them or by explaining why no weight should be attributed to them).

63. This is a further error which alone justifies a quashing order.

Conclusion

64. On all or any of the above grounds, it is at least arguable that the Inspector's decision was in error and is vulnerable to quashing. Accordingly, the Claimant seeks permission to proceed with the statutory review and in due course will be seeking a quashing order with costs.

14 June 2023

JENNY WIGLEY KC

Landmark Chambers

Appeal Decision

Inquiry Held on 28 February to 4 March 2023 and 6–8 March 2023

Site visit made on 6 March 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 5th May 2023

Appeal Ref: APP/E1855/W/22/3310099

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by NRS Aggregates Limited against the decision of Worcestershire County Council.
 - The application Ref 19/000053/CM, dated 10 January 2020, was refused by notice dated 27 May 2022.
 - The development proposed is a sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement.
-

Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. On application, Stop the Quarry Campaign were granted Rule 6(6) status pursuant to the Town and Country Planning (Inquiries Procedure) (England) Rules 2000. The Rule 6 Party participated fully in the Inquiry.
3. A case management conference was held on 19 January 2023 to discuss administrative and procedural matters. The Inquiry opened on 28 March 2023 and sat for a total of 8 days. I undertook a site visit on an accompanied basis on 6 March 2023, following an extensive and comprehensive itinerary prepared by the parties. I closed the Inquiry in writing on 24 April 2023 following receipt of information that I requested on the final day of the sitting sessions, as set out in Annex C of this decision.
4. The application was accompanied by an Environmental Statement (ES)¹. This was subject to three requests from the Council for further information pursuant to Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations). The first submission to these requests from the Appellant was made in October 2020², the second in July 2021³ and the third in April 2022⁴. A further request

¹ CD1.03

² CD3.01 – CD3.22

³ CD5.01 – CD5.28

⁴ CD8.01 – CD8.09

pursuant to Regulation 25 of the EIA Regulations was made on 13 January 2023 by the Planning Inspectorate. The response⁵, dated 9 February 2023, was available for public consultation for 30 days. No representations were received in response to the submitted information. I have taken into account all of the Appellant's responses to the Regulation 25 requests, at both the application and appeal stages, in determining this appeal. Overall, I am satisfied that the ES, as supplemented by the responses to the Regulation 25 requests, meets the requirements of Schedule 4 of the EIA Regulations.

5. The decision notice issued by the Council on 27th May 2022⁶ identified nine reasons for the refusal of planning permission. The Council's Statement of Case⁷ identified that only reason 2 (Unacceptable impact on openness of the Green Belt) and reason 3 (Unacceptable impact on residential amenity and local schools) would be defended in the appeal.
6. Prior to the opening of the Inquiry, a Statement of Common Ground⁸ (SoCG) was submitted and signed by both the Appellant and the Council on 24 January 2023. A revision to the SoCG⁹ was submitted and signed by both the Appellant and the Council on 15 February 2023 and superseded the January version. The revised SoCG identified that the Council had considered the additional technical evidence submitted by the Appellant under the Regulation 25 request of 13 January 2023 and that, as a consequence, the Council would not be defending reason for refusal 3 (Unacceptable impact on residential amenity and local schools) in the appeal. Consequently, the Council only defended reason 2 (Unacceptable impact on openness of the Green Belt) in the appeal.
7. At the time the planning application was considered by the Council's Planning and Regulatory Committee on 24 May 2022 the Development Plan included the County of Hereford and Worcester Minerals Local Plan (adopted April 1997). This plan has now been superseded by the adoption of the Worcestershire Minerals Local Plan in July 2022 which is considered later in this Decision. However, the Council's Decision Notice¹⁰ only refers to one policy of the former Plan. This relates to Reason for Refusal 1 which identified conflict with Policy 2 of the former Plan. Notwithstanding the fact that the Council did not defend reason 1 in the appeal, the former Plan is now superseded and therefore, is no longer of relevance to the appeal proposal. No other policies were referred to in the Council's reasons for the refusal of planning permission.

Main Issues

8. Having considered the evidence before me and from what I heard at the Inquiry, the main issues in this appeal are:
 - The need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County.

⁵ CD14.01 – CD14.09

⁶ CD10.02

⁷ CD13.01

⁸ CD13.25

⁹ CD13.26

¹⁰ CD10.02

- The effect on the openness of the Green Belt, and the purposes of including land within it, and whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies.
- The effect of the proposed development on local amenity and the living conditions of the occupants of existing and future nearby dwellings and the amenity of pupils and staff at Heathfield Knoll School and First Steps Day Nursery with particular regard to noise, dust, air quality and health.
- Whether the effects of the proposed development on the character and appearance of the area, outlook from nearby properties, highway safety and the efficient operation of the highway network, Public Rights of Way, heritage assets and the local economy or other matters weigh in the planning balance.
- The planning balance with particular regard to whether the proposal is inappropriate development and whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

The appeal site and proposed development

9. The appeal is located within the Green Belt and comprises approximately 46 hectares of predominantly agricultural land. It is approximately 700 metres (m) and 890m east of the villages of Wolverley and Fairfield, respectively, and approximately 370m south of the village of Cookley.
10. The site is located immediately to the north of the Wolverley Road (B4189), immediately to the west of the Wolverhampton Road (A449), and approximately 40m east of a residential estate road of Brown Westhead Park. Land to the east of Wolverhampton Road forms part of the Lea Castle Village allocation in the Wyre Forest District Local Plan for approximately 1,400 dwellings, employment land, primary school and community facilities. Outline planning permission has been granted for 600 dwellings, Class B1 employment uses and other uses on the Lea Castle Village Site (Ref No. 17/0205/OUTL) with a Reserved Matters application for the 600 dwellings, public open space and infrastructure being granted in 2020 (Ref No 19/0724/RESE). Construction work has commenced on this part of the site and is relatively well advanced. The Council indicate that the Lea Castle Village allocation is located approximately 20 metres east of the appeal site boundary and approximately 250 metres from the easternmost extent of the proposed extraction area.
11. The proposed development would involve the extraction of approximately 3 million tonnes of sand and gravel from two distinct areas separated by a bridleway that runs roughly north-south through the centre of the site. The western extraction area being approximately 12.5 hectares and the eastern area approximately 13.5 hectares
12. Extraction would take place at a rate of approximately 300,000 tonnes of sand and gravel per annum. The depth of extraction would vary between about 5m

to 7m in the western area and about 7m to 12m in the eastern area. The site is proposed to be worked dry, above the water table, with no de-watering proposed. It is estimated that the site would be exhausted of mineral and restored within 11 years of the commencement of the development.

13. The site would be progressively restored using site derived and imported inert material to agricultural parkland, public access and nature enhancement. Mineral extraction operations would occur over 6 phases (Initial Works, Phases 1, 2, 3, 4 and 5), beginning by working and setting up the processing plant site in the centre of the site, then commencing extraction in the western area working north to south, crossing over to the eastern area working south to north.
14. To restore the site, it is proposed to import approximately 600,000 cubic metres of inert material (equating to about 1,020,000 tonnes), importing approximately 60,000 cubic metre of inert material per annum (equating to about 102,000 tonnes per annum). The importation of inert materials would be controlled by an Environmental Permit issued by the Environment Agency (EA). Vehicular access to the site would be via a proposed new access and internal haul road onto the Wolverley Road (B4189) in the south-eastern area of the site.
15. The proposed restoration scheme includes the creation of a new agricultural parkland, providing approximately 2.7 kilometres of new public bridleways and permissive bridleways and 5 pocket parks. Native woodland blocks would be re-established to reflect previous historic land uses (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439m of hedgerows would be strengthened, approximately 579m of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees thereby seeking to reinstate the historic avenue of trees along bridleways WC-625 and WC-626.
16. The local landscape does not have a statutory landscape designation. Three Grade II listed buildings exist within the vicinity, including Sion Hill House located approximately 250m to the south of the site, North Lodges approximately 250m to the north of the site, and Wolverley Court, located approximately 500m to the south-west. The Staffordshire and Worcestershire Canal Conservation Area is located to the west and north-west of the site, being located approximately 65 metres north-west of the site at its closest point. The Wolverley Conservation Area is located approximately 590 metres west of the site.

Planning Policy Context

17. The SoCG identifies that the Development Plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 is:
 - The Worcestershire Minerals Local Plan 2018 – 2036 (MLP) (adopted July 2022)¹¹;

¹¹ CD11.03

- The Waste Core Strategy for Worcestershire 2012 – 2027 (WCS) (adopted November 2012)¹²; and
 - The Wyre Forest District Local Plan 2016 – 2036 (WFDLP) (adopted April 2022)¹³.
18. The MLP does not make any specific allocations of sites that would be suitable for the extraction of minerals. The Plan identifies that a Mineral Site Allocations Development Plan Document (DPD) is to be prepared to allocate specific sites and preferred areas. The DPD is at an early stage of preparation and no parties referred to any of its content during the Inquiry. Consequently, I have attached no weight to this emerging DPD.
19. However, the MLP identifies that mineral supply will be delivered from working and processing at multiple sites over the life of the plan, focused in five strategic corridors. The appeal site is located in the North West Worcestershire Strategic Corridor.
20. I consider that the following comprise the most important policies in the development plan that are relevant to the determination of this appeal:
- Worcestershire Minerals Local Plan (MLP)*
21. Policy MLP 1 (Spatial Strategy) identifies, amongst other things, that development for sand and gravel will be supported within the strategic corridors and will not normally be supported elsewhere in the county.
22. Policy MLP 3 (Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors) sets out, amongst other things, that planning permission will be granted for new mineral developments on windfall sites within the strategic corridors where there is both a shortfall in supply as demonstrated by a shortfall in the landbank or stock of permitted reserves demonstrated in the most recent Local Aggregate Assessment (for aggregate development proposals); there is a demonstrated shortfall in supply of the relevant mineral for particular uses or specifications which would be addressed by the proposed development; or, there is a demonstrated shortfall for a particular geographic market area which would be addressed by the proposed development.
23. Policy MLP 11 (North West Worcestershire Strategic Corridor) states, amongst other matters, that 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. It further sets out a number of green infrastructure priorities that will be required to be delivered at each stage of a mineral site's life.
24. Policy MLP 14 (Scale of Sand and Gravel Provision) reflects the requirements of paragraph 213 of the National Planning Policy Framework (the Framework) by requiring a landbank of at least seven years to be maintained throughout the plan period, and sufficient productive capacity for sand and gravel will be maintained to at least meet the production guideline in the most recent Local Aggregate Assessment to supply a wide range of sand and gravel materials

¹² CD11.04

¹³ CD11.05

and products. The policy identifies that the County does not have a seven year landbank and that the most recent Local Aggregate Assessment must be referred to in calculating the landbank to support applications. It further identifies that new sites and alterations or extensions to extant sites will provide at least a further capacity to meet an identified shortfall of 11.407 million tonnes of sand and gravel and that proposals for sand and gravel development on windfall sites within the strategic corridors will only be supported where they meet the tests set out in policy MLP 3.

25. Policy MLP 15 (Delivering a Steady and Adequate Supply of Sand and Gravel) further supports the need to maintain the landbank at seven years and sets out that planning permission will be granted for minerals development that will contribute to maintaining a steady and adequate supply of sand and gravel. It further sets out that a level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards maintaining a landbank of permitted sand and gravel reserves in Worcestershire of at least 7 years and/or enabling Worcestershire's productive capacity for a wide range of sand and gravel materials and products to be maintained or enhanced.
26. Policy MLP 27 (Green Belt) identifies that mineral extraction and/or engineering operations within the Green Belt will be supported where it can be demonstrated that, throughout its lifetime, the mineral extraction and/or engineering operations will preserve the openness of the Green Belt and not conflict with the purposes of including land within the Green Belt. It further sets out that 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 set out in the above preceding sentence, 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.
27. Policy MLP 28 (Amenity) sets out that planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on amenity or health and well-being taking into account the cumulative effects of multiple impacts from the site and/or a number of sites in the locality. Furthermore, the proposed development must not cause unacceptable harm to sensitive receptors from dust, odour, noise and vibration, light and visual impacts.
28. Policy MLP 29 (Air Quality) states, amongst other things, that planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on air quality, and will help secure net improvements in overall air quality where possible. A level of technical assessment will be required to demonstrate that, throughout its lifetime, the proposed development will not cause unacceptable harm to sensitive receptors, sensitive habitats, or designated sites of importance for biodiversity from air quality. It further identifies that particular consideration will need to be given to air quality impacts in or impacting upon areas where air quality is known to be poor, such as designated Air Quality Management Areas (AQMAs).

29. Policy MLP 30 (Access and Recreation) sets out that planning permission will be granted where it is demonstrated that the proposed mineral development will protect and enhance rights of way and public access provision. Amongst other things, it further sets out that development should not have an unacceptable adverse effect on the integrity and quality of the existing rights of way network.
30. 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.
31. Policy MLP 32 (Historic Environment) identifies that planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and, where possible, enhance the historic environment. It further sets out that proposed development should optimise opportunities to enhance the historic environment, including enhancing the condition, legibility and understanding of heritage assets and their setting and integrating other green infrastructure components where appropriate. It further sets out that development should 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.
32. Policy MLP 33 (Landscape) sets out that planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and enhance the character and distinctiveness of the landscape. It further states that development should 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 result in significant change to the key characteristics of the landscape identified in the Worcestershire Landscape Character Assessment and Worcestershire Historic Landscape Characterisation.
33. Policy MLP 37 (Water Quality and Quantity) states that planning permission will be granted where it is demonstrated that the proposed mineral development will protect and, where possible, enhance the quality, quantity and flow of surface water and groundwater resources.
34. Policy MLP 39 (Transport) sets out that planning permission will be granted for mineral development that uses the most sustainable transport options and which will not have an unacceptable adverse effect on transport safety or congestion. Amongst other things, development proposals are required to connect to the strategic transport network without having an unacceptable adverse effect on safety or congestion of the local or strategic transport network and not have an unacceptable adverse effect on the environment or amenity along transport routes.

Waste Core Strategy for Worcestershire 2012 – 2027 (WCS)

35. Policy WCS 5 (Landfill and disposal) sets out that no capacity gap has been identified for the landfill or disposal of waste. Policy WCS 6 (Compatible land uses) and the supporting text to the policy identifies, amongst other things, that proposals for landfill facilities will be permitted where it is demonstrated that they form a necessary part of the restoration scheme for a mineral development.

36. Policy WCS 8 (Site infrastructure and access) sets out that proposals for new waste management facilities will be permitted where, amongst other things that the site is well connected to the strategic transport network and pedestrian access to the site is safe and adequate to support the proposed waste management facility. In addition, there should be no unacceptable adverse impact on safety or congestion on the transport network or amenity along transport routes.
37. 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.
38. 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.
39. 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.
40. Policy WCS 14 (Amenity) sets out that waste management facilities will be permitted where it is demonstrated that the operation of the facility and any associated transport will not have unacceptable adverse impacts on amenity.
Wyre Forest District Local Plan 2016 – 2036 (WFDLP)
41. Policy SP.7 (Strategic Green Belt Review) is generally reflective of Part 13 of the Framework but also identifies changes to the Green Belt boundary to enable sustainable development to the north of Kidderminster to facilitate the Lea Castle Village development.
42. Policy SP.21 (Historic Environment) sets out, amongst other things, that development proposals should protect, conserve and enhance all heritage assets and their settings, including assets of potential archaeological interest.
43. Policy DM.22 (Safeguarding the Green Belt) identifies that within the Green Belt development will not be permitted, except in very special circumstances, or unless one of the specified circumstances applies which are listed in the policy. This includes other operations which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

Need for sand and gravel and inert fill provision

44. Paragraph 213 of the Framework provides that minerals planning authorities should plan for a steady and adequate supply of aggregates by, amongst other things, preparing an annual Local Aggregates Assessment (LAA), making provision in minerals plans and maintaining landbanks of at least seven years for sand and gravel, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. The Planning Practice Guidance (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.
45. The SoCG identifies that the main parties agree that Worcestershire currently does not hold a sufficient landbank of a minimum of seven years as required by paragraph 213 of the Framework. The LAA¹⁴ (published January 2023) covers the period up to 31 December 2021. The annual production guideline for sand and gravel identified by the LAA (January 2023) is calculated as 0.827 million tonnes. Based on this production guideline and the stock of permitted reserves of approximately 3.42 million tonnes of sand and gravel, Worcestershire had a landbank of approximately 4.14 years on 31 December 2021.
46. Since 31 December 2021, the Council has granted planning permission for sand and gravel production from three sites comprising the western portion of the former Sandy Lane Quarry, Wildmoor, Ryall North Quarry and Bow Farm Quarry. Taking the above planning permissions into account and assuming the production guideline for sand and gravel set out in the LAA (0.827 million tonnes) continues in 2022, then the landbank of permitted reserves on 31 December 2022 would be approximately 4.75 million tonnes of sand and gravel, equating to about 5.74 years.
47. The Appellant indicates that the appeal proposal would add 3.6 years to the landbank and would therefore enable Worcestershire to be compliant with paragraph 213 of the Framework. The SoCG also identifies that the proposed development would contribute to a "balanced geographical spread of mineral reserves" in Worcestershire.
48. In addition, there are three further planning applications which are awaiting determination by the Council¹⁵. These comprises Pinches Quarry Phase 4 (Ref: 19/000056/CM), Ripple East (Ref: 22/000015/CM) and Former Motocross Site, Wilden (Ref: 21/000036/CM). The Council indicates that should planning permission be granted for these sites they would increase the landbank by 1.03 years, 0.57 years and 0.3 years respectively. These could, collectively, increase the landbank by 1.9 years to 7.64 years which would enable a landbank of at least seven years to be met.
49. However, I am unable to make any pre-determinative assumption of whether planning permission may be granted for any of these sites in my consideration of the current landbank position. Furthermore, I accept the Appellant's view that sales of sand and gravel will continue to deplete the landbank until the above sites are potentially permitted and become operational with an estimate of at least 2 years not being unrealistic. Consequently, the landbank

¹⁴ CD11.06

¹⁵ ID28

would be likely less than the required seven years at the point where any of the above sites are in a position to make a contribution to supply.

50. Taking the above factors into account, it is clear that a seven year landbank for sand and gravel cannot be demonstrated in the County. The appeal scheme would make a notable contribution to the supply of needed minerals which is a matter of substantial significance that should, in accordance with Paragraph 211 of the Framework, be given great weight. On this basis the appeal scheme would accord with policies MLP 3, MLP 14 and MLP 15 of the MLP.
51. Turning to the importation of inert fill, the Rule 6 Party expressed some doubt whether there would be sufficient material (60,000m³ per annum) available to achieve the restoration phasing in accordance with the submitted working and restoration scheme, particularly given the availability of alternative sites and the potential for future increase in recycling of inert material. The consequence of this was viewed as being an extension of the duration of operations or compromises to the submitted restoration landform. In addition, Policy WCS 5 of the WCS sets out that no capacity gap has been identified for the landfill or disposal of waste.
52. In order to assess the availability of inert waste to enable restoration at Lea Castle Farm, the Appellant has carried out a review of the Environment Agency's (EA) Waste Data Interrogator (WDI) 2021 for data for inert waste accepted and removed from sites with environmental permits for waste management activities within Worcestershire and the surrounding West Midlands Metropolitan Districts¹⁶. This also includes a review of major projects and the need for the deposition of inert waste.
53. The evidence suggest that Worcestershire has a declining inert capacity and the three sites that currently have an EA permit have very limited capacity. In terms of the wider West Midlands Metropolitan Districts, Meriden Quarry (Area G) is the only EA permitted landfill accepting inert waste. The total inert waste received at Meriden Quarry in 2021 was 783,452 tonnes. Meriden Quarry is operated by the Appellant, therefore if required, 60,000m³ per annum could be redirected from Meriden Quarry to Lea Castle Farm to enable restoration.
54. The Appellant's review also refers to the submitted Planning Statement¹⁷ which identifies that the site is ideally suited to help support growth in respect of the provision of minerals and the importation of inert waste associated with the nearby Lea Castle village. Notwithstanding this, the Appellant considers that the site is ideally geographically located to support growth/development in north Worcestershire and the west Midlands. It sets out that twenty different construction projects have been planned for the West Midlands region, costing a total of approximately £10bn and will require the deposition of significant volumes of inert waste.
55. The Appellant states that the proposed site would provide a key south-western location and that there is an anticipated increase in inert waste likely to be generated from large infrastructure projects in north Worcestershire and the West Midlands over the next 10 years. Furthermore, the Appellant states

¹⁶ ID43

¹⁷ CD1.02

that there is an inert waste capacity gap in Worcestershire, placing ever increasing need for sites, such as the appeal site, which would meet this increasing need and consequently the deliverability of the restoration scheme with the importation of 60,000m³ per annum is considered achievable.

56. The Council accepts that in 2021, predicated on the 2020 data, there was a declining void space as no new landfill sites accepting inert waste have been granted an Environmental Permit by the EA¹⁸. The Council considers that this situation is anticipated to continue until other sites that have planning permission for the importation of inert material (Chadwich Quarry and Sandy Lane Quarry) are granted an Environmental Permit. Furthermore, the West Midlands Resource Technical Advisory Body (WMRTAB) Study titled "Landfill in the West Midlands – 2019", dated 3 December 2021, acknowledges that landfill capacity across the West Midlands as a whole is declining and without further capacity being permitted it is likely that inert capacity will run out by 2031.
57. The Rule 6 party considers that it would be unrealistic that inert waste can be redirected from Appellant's Meriden site over the next 10 years due to the considerable transport distance, suggested to be 35 miles, and the fact that such vehicles would drive past the Sandy Lane Site located approximately 18 miles from the appeal site which requires 975,000m³ of inert materials over the next 6 years to achieve restoration. Overall, the Rule 6 Party consider that the target landfill to achieve the progressive infill program set out by the Appellant has no realistic chance of being achieved.
58. On the basis of the evidence provided in the Inquiry, it is not possible for me to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m³ per annum being sustained to ensure that the deliverability of the phased working and restoration within 11 years of the commencement of the development would be achieved. I recognise that part of the Appellant's core business involves waste management activities. In addition, I accept that it is likely that some, currently unquantifiable, amount of inert waste could be generated by the Lea Castle Village development. However, whilst there would be no conflict with Policy WCS 6 of the WCS, 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.

Green Belt

59. The appeal site lies within the Green Belt as defined in the development plan for the area. It is clear from my site visit and from the evidence presented in the Inquiry that the local community recognise the contribution that the appeal site makes to the openness of the Green Belt. 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.

¹⁸ ID50

60. 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.
61. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts. It adds that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
62. The Framework advises that when located in the Green Belt inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC). The Framework provides that substantial weight should be given to any harm to the Green Belt, and that VSC 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.
63. It is an accepted planning principle that minerals can only be worked where they are found, and that mineral working is a temporary use of land. Paragraph 150 of the Framework provides that mineral extraction and engineering operations are not inappropriate development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. These purposes include: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; and to preserve the setting and special character of historic towns.
64. The proposed development, including the temporary buildings, facilities, plant, access and bunds, are, in my view, part and parcel of the proposed mineral extraction operations here for the purposes of applying Green Belt policy. If there is any doubt about the bunds, these would be engineered structures, and their construction would be an engineering operation in applying Paragraph 150 of the Framework. This paragraph must mean that some level of operational development for mineral extraction in the Green Belt would preserve its openness and would not conflict with its purposes, and that beyond that level there would be a 'tipping point' where the development would become inappropriate in the Green Belt, and so the exception would no longer apply.
65. Furthermore, I do not consider that the provision of the proposed portacabins to provide space for offices, welfare facilities and training can be reasonably characterised as 'the construction of new buildings in the Green Belt as mentioned in paragraph 149 of the Framework. In my view, it would be unreasonable to suggest that mineral extraction operations could be carried out without offices and welfare facilities. Such buildings are commonplace at many mineral sites throughout the country, and, in my view, there is nothing inherent in their provision here that would take them out of the scope of appropriate development in the Green Belt within the context of paragraph 150 of the Framework. In my experience, the buildings proposed on this site are not significantly larger than those that would be expected to be seen for a mineral extraction operation of this size.

66. In considering the effect of the proposed development on Green Belt openness, I have had regard to the case law evidence that was submitted and referred to in the Inquiry. The Judgment, *Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466¹⁹ identifies, amongst other things, that the concept of openness of the Green Belt "is not narrowly limited to the volumetric approach suggested by [counsel]. The word 'openness' is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs ... and factors relevant to the visual impact on the aspect of openness which the Green Belt presents".
67. The case, *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3²⁰ (the Samuel Smith case) was extensively referred to by the main parties. Amongst other things, this case identifies that openness is a broad policy concept and is the counterpart of urban sprawl. It further identifies that openness is not necessarily a statement about the visual qualities of the land, though in some cases it may be an aspect of applying the planning judgement involved in applying this broad policy concept. Nor does it imply that freedom from any form of development as the judgement recognises that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. It further states that a large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Furthermore, it identified that as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land and that openness is a matter not of legal principle but of planning judgement.
68. In the case *Europa Oil and Gas Ltd. v Secretary of State for Communities and Local Government* [2013] EWHC 2643 (Admin)²¹, paragraphs 67 and 68 of that judgement referred to the consideration of the temporary nature of minerals workings and the reversibility of their impact. Ouseley J noted the special status of mineral extraction under Green Belt policy, stating that a factor that affects appropriateness, the preservation of openness and purposes of the Green Belt "is the duration of development and the reversibility of its effects.....Minerals can only be extracted where they are found". He also made clear that it is nonetheless for the decision maker to determine the effect on Green Belt openness.
69. In considering the above cases, it is apparent that there is not a clear distinction between openness and visual impact. The cases recognise the temporary nature of minerals operations, but it is a matter for the decision maker to determine the effect on openness.
70. Although the Council did not identify that the proposed development would cause unacceptable visual impact to the landscape or local receptors in its reasons for the refusal of planning permission, in my view, it is a reasonable expectation that in assessing openness the likely visual impacts of

¹⁹ CD12.05

²⁰ CD12.06

²¹ CD12.07

development on the openness of the Green Belt should be considered. It is reasonable to assume that in assessing openness, a determination is necessary whether the proposal offers any visual or spatial effects on the openness of the Green Belt, and whether such effects are likely to be harmful or otherwise. Determining the 'tipping point' beyond mineral extraction that would preserve openness depends on the circumstances of the proposals as a matter of fact and degree.

71. In my view, determining the 'tipping point' would depend upon consideration of 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. This approach would accord with the judgments identified above whilst recognising that the Council's reasons for the refusal of planning permission did not identify that the proposals would have an unacceptable adverse landscape and visual impact.
72. In terms of openness, the appeal site comprises open former parkland now use as agricultural fields. It offers relatively open external and internal views from the parts of the Public Rights of Way (PRoW) that cross the site. Its spatial position between settlements, a set out above, is visually recognisable. The openness of the area was cited in representations to the Inquiry as an important element of this part of the Green Belt, and a factor that contributed significantly to the appreciation and enjoyment of the area.
73. There are perhaps understandably differences between the main parties regarding the effect on openness and the extent to which this has been considered in the planning application and the evidence presented in the Inquiry. In my view, the plant, equipment, buildings and access and activity associated with mineral extraction here would, to some extent, impair the openness of the area. However, I do not consider that this would be of an extent to exceed the threshold or 'tipping point' for the purposes of applying paragraph 150.
74. However, the proposed development relies on the creation of a number of soil and overburden storage bunds to reduce the impact of the development from surrounding key viewpoints and screen views of the operational phases of mineral extraction. The bunds would be of substantial lengths and would predominantly range in height from 3m to 6m. In the extraction areas these would be constructed and removed as required for each phase, but at times the engineered structures would truncate open views from PRoW within this part of the Green Belt. The bunds would have a greater adverse impact on the openness of the Green Belt.
75. Bunds 1-5 would remain in-situ from the initial creation of the processing plant area through to its decommissioning on restoration. Bund 3 (4-5m high) and bund 4 (3m high) would be positioned immediately to the east and south respectively of the PRoW. This would significantly reduce views in these directions for virtually the lifespan of the development. In my view, the bunding around the plant site area would have a greater impact on openness during the operations due to the bund height and duration of placement.
76. I recognise that the proposed duration of the development may not be considered to be lengthy in comparison to some mineral developments. Nonetheless, in the context of the visual and spatial components of the Green

Belt, the operations could reasonably be considered as occurring over the medium/long-term. In my view, the placement and retention of Bunds 1-5 in a prominent central position within the site for up to 11 years represents a significant period. During which, they would give rise to relatively long-term effects. The bunds would themselves appear as prominent regular and relatively high structures in close up views from the PRoW network and the surrounding landscape for the duration of the operations.

77. In addition, there would be a further 15 bunds (20 in total) constructed and removed at various stages of the extraction operations and ranging in height from 3m to 6m, save for bund 6 at 0.3m. The height, duration of existence and location of these is set out in the submitted plans and ES²². Predominantly, the bunds around the extraction areas would remain in place for around 1.5 to 3 years, with bunds 17 ~ 19 being in place for approximately 6 years.
78. The adverse effects of the bunds on openness would be fully reversible in time. Nevertheless, the harm for up to 11 years could be considered as a medium/long-term effect. 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.
79. Furthermore, although a phased development is proposed, the operations would be intensive and occupy considerable areas of the site at any one time for the purposes of extraction, infilling and bund placement/removal. I accept the Council's view that this is not a static site and that the bunds, in particular, are not static features. Although some will be grassed, they will nonetheless appear as engineered features that will not entirely assimilate into the landscape. 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.
80. 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.
81. Although phased working and restoration is proposed, I have identified above that it is not possible for me to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m³ per annum being sustained to achieve the phased working as proposed. Notwithstanding this matter, the restoration of each phase will likely take some time to achieve a restored visual appearance with the consequence that considerable areas of the site may appear as a 'disturbed' landscape until the proposed planting reaches some degree of maturity.
82. 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

²² CD1.04, paragraph 4.3.12

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.

83. There were discussions in the Inquiry of various ways of reducing the impact of the development and height of bunds by soil spreading for example or seeking alternative locations for some bunds and the plant area and/or reducing the extent of the scheme. However, I accept the Appellant's view that these would not be practicable for the nature of the operations proposed. Moreover, an alternative method of working or a reduced scheme are not before me. Consequently, I have determined this appeal on the basis of the scheme as considered by the Council.
84. The Council suggest that the restored landform, in being slightly lower than existing in part, would not constitute a 'reversal' of the impact as the restoration scheme would substantially change the original landform and thus would offer a reduced visual contribution to wider ranging views. However, I do not consider this to be the case. In my view the proposed restored landform, albeit slightly lower in parts, would adequately perform its Green Belt purpose and would not have any material adverse effect on openness.
85. Turning next to the purposes of the Green Belt, the proposed development would not be of a type and scale that would conflict with the Green Belt's purpose to assist in safeguarding the countryside from encroachment. Although during the operational period, parts of the site would have a temporary developed appearance which would impact on openness, I do not consider that this would not hinder the objective of preventing unrestricted urban sprawl, particularly taking into account the judgement in the Samuel Smith case. Furthermore, I do not consider that the proposed development, due to its temporary nature and restoration works, could be reasonably construed as causing the neighbouring towns to merge into one another. On restoration, the site would continue to fulfil the Green Belt's purposes.
86. The Rule 6 Party argue that the location of the site between two former gate houses would affect the setting of the historic towns of Wolverley and Cookley. Notwithstanding the consideration of whether these settlements can be construed to be historic towns, in applying a reasonable interpretation of Paragraph 138(d) of the Framework, I do not consider that it can be reasonably argued that the proposed development would fail to preserve the setting and special character of historic towns, particularly given the nature of built development in Cookley and Wolverley and the separation distance between the appeal site and the gatehouses to such built development.
87. For the above reasons, 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. However, before any determination can be made of the extent to which the proposal would be contrary to national and local Green Belt planning policy, it is necessary to consider whether the inappropriateness of the proposed development, and any other harm, is clearly outweighed in the planning balance by other

considerations so as to amount to the very special circumstances necessary to justify the development.

Local Amenity and living conditions

88. Local residents and the Rule 6 Party expressed considerable concern regarding noise, dust, air quality, and the associated effects on the health of those living in the area, attending school, and using local footpaths as a consequence of the proposed development.
89. With regard to noise, the Council considers that the Appellant has adequately demonstrated that the noise from the proposed development could be controlled so as to secure compliance with the policy objectives and principles of the Framework, the Noise Policy Statement for England²³, and the guidance found in the PPG. Conditions providing noise limits were also suggested²⁴.
90. The ES included a Noise Assessment Report²⁵ which was assessed by the Appellant's noise witness and supplemented by the additional assessment provided as part of the Regulation 25 Submission at the request of the Planning Inspectorate²⁶. I have taken this evidence into account along with the evidence provided at the Inquiry by the Rule 6 Party and the Appellant.
91. The SoCG confirms, in paragraph 7.12, that Worcestershire Regulatory Services, the statutory consultee with regard to noise impacts, were satisfied that the noise report confirms that the operations could be undertaken within national guidance. Section 9 of the SoCG confirms that, in combination with other development, the proposal would not cause harm with regard to noise impacts to residential dwellings or Heathfield Knoll School and the First Steps Nursery, subject to the implementation of the proposed mitigation measures.
92. The minerals sections of the PPG advise that noise limits should be established through a planning condition, at the noise-sensitive property that does not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field). The PPG recognises that temporary operations such as topsoil and overburden stripping, bund formation and the final restoration processes are often noisier than extraction operations, but these are of relatively short duration. Consequently, it advises that increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds.
93. The Noise Assessment Report considered the existing average baseline noise measurements at the seven nearest noise sensitive properties and the Sound Power Levels, dB LWA, of each selected plant item that is likely to be used on the site. Site noise calculations were undertaken to each receptor for a reasonable worst-case scenario, i.e. with all mobile plant items operating at

²³ CD12.17

²⁴ ID51

²⁵ CD1.07

²⁶ CD14.07

the closest practical position of the proposed operating areas to each receiver location. The calculations assumed that all plant on site operates simultaneously in the closest likely working areas to each receiver location for both extraction and infilling. For most dwellings, the activity in the phases for extraction and infilling would not take place simultaneously at the closest part of the site (in practice, these two activities would be taking place in different phases of the development). Therefore, the actual quarry site noise levels would generally be lower than the calculated worst case values.

94. In any event, the calculated site noise levels are all at or below the 55dB(A) LAeq,1h (free field) site noise limits suggested in the PPG for normal, day to day operations. The calculated levels from temporary operations, e.g. overburden stripping, bund formation and the final restoration processes, were also calculated and found to be at or below the site noise limit of 70 dB LAeq,1h (free field) which also complies with the suggested limits for such activities set out in PPG.
95. The Appellant's noise witness also considered the noise impact on new residential properties since the time that the Noise Assessment Report was produced, and the noise associated with the construction of the Lea Castle Village. The evidence suggests that all of the calculated site noise levels comply with the suggested site noise limits for normal and temporary quarry operations for these additional receptors and also taking into account the cumulative impact of noise from construction activities at the Lea Castle Village. Consequently, operations at the proposed quarry would not cause any significant impact at the permitted and proposed residential developments.
96. In the absence of any other technical evidence to the contrary, I am satisfied that the evidence submitted by the Appellant regarding noise impact is comprehensive, robust and compelling. Consequently, I find that the appeal scheme, subject to appropriate planning conditions, would not likely result in any significant adverse noise impacts for those residing or visiting the site area.
97. Turning now to the impact of dust on amenity, the ES included a Dust Impact Assessment²⁷ which was reviewed and supplemented by the evidence of the Appellant's dust and air quality witness to include the potential cumulative impacts of the proposed development with other consented allocated development in the area. Amongst other things, this considered the wider Lea Castle Village development to the east. The assessment includes proposed in-design mitigation measures along with summary management and control measures that would be implemented specifically in relation to fugitive dust.
98. As part of the consultations on the planning application, Worcestershire Regulatory Services advised that they were satisfied with the methodology and conclusions of the submitted Dust Impact Assessment and recommended that the mitigation measures proposed therein are made the subject of suitable planning conditions. In this regard, suggested planning condition No. 31 would require the submission of a Dust Management Plan to include onsite and offsite dust monitoring and details of dust suppression measures.

²⁷ CD1.07

99. In addition, the importation of the inert fill material for restoration would be controlled under an Environmental Permit to be issued by the Environment Agency under the requirements of the Environmental Permitting (England and Wales) Regulations 2016. The Permit would require the management and operation of the permitted operations and directly associated activities using Best Available Techniques (BAT) to prevent, or where that is not practicable, reduce emissions. The Permit would likely include several conditions and would be expected to include standard boundary conditions in relation to dust and other aerial emissions.
100. The Dust Impact Assessment has considered the guidance provided in the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Mineral Dust Impacts for Planning'²⁸. The assessment followed the recommended qualitative approach in considering the potential for any such dust to impact existing nearby properties and land uses through assessment of the distance and orientation to receptors, prevailing weather conditions, topography and screening. It states that for a dust event to occur there must also be a failure of dust control measures. Particles greater than 30µm (micrometres) make up the greatest proportion of dust emitted from mineral processing and largely deposit within 100 m of sources. Particles between 10 and 30µm are likely to travel from 250 to 400 m, while sub 10µm particles, which make up a small proportion of dust emitted from most mineral processing operations, may travel up to 1 km from sources.
101. The IAQM guidance is clear that adverse dust impacts from sand and gravel sites are unlikely beyond 250m as measured from the nearest dust generating activities. Accordingly, the guidance advises that where receptors are not located within 250m of a sand and gravel site, it can normally be assumed that a detailed dis-amenity dust assessment would not be required.
102. The Assessment considers the likely dis-amenity dust impact at a number of sensitive receptors including Brown Westhead Park and Playing Fields, Heathfield Knoll School, statutory and non-statutory designated wildlife sites, and the residential properties of No.1 and No.5 Brown Westhead Park, South Lodges, Broom Cottage, Four Winds, No.10 Castle Barns, and the Bungalow. Dis-amenity dust is generally accepted to be greater in size than 10 microns and can cause dust soiling.
103. The Assessment predicts a negligible risk and negligible magnitude of effect at all receptors, except No.10 Castle Barns, which it predicts a low risk and slight adverse magnitude of effect, and the Bungalow in which it predicts a medium risk and moderate adverse magnitude of effect. Potential impacts and effects are suggested to be negligible at all other properties including the two schools to the southwest of the site. The Assessment suggests that if dust mitigation and control measures are effectively implemented, this would effectively mitigate any potential dust impact at No.10 Castle Barns and the Bungalow.
104. The Appellant's evidence submitted in the Inquiry²⁹ also considers the cumulative impact of dis-amenity dust as a consequence of the construction work occurring on the Lea Castle Village development. The nearest potential new receptors would be 240m to the east of the extraction area. The evidence suggests that even if these were to be occupied whilst operations

²⁸ CD12.24

²⁹ PoE Katrina Hawkins

were occurring in Phases 4 and 5 of the proposed development, the resulting effects are predicted to be negligible and that the proposals would not have any significant adverse effects on any proposed new receptors.

105. Two properties were identified that lie within the relevant dis-amenity dust risk screening distances of both the proposed development and the Lea Castle Village site, comprising Castle Barns and Four Winds. The potential for cumulative impacts at these receptors would only occur if extraction and restoration activities occurred in Phases 4 and 5 of the proposed development at the same time as construction activities in the western area of the wider Lea Castle Village development. Taking into account distances and orientation, the evidence concludes that the contribution of dust impacts that may arise if the western part of the wider Lea Castle Village development was to occur simultaneously with the appeal proposals, then this would not result in significant adverse effects at either of these properties.
106. In the absence of any compelling technical evidence to the contrary, I am satisfied that the appeal proposals would not result in unacceptable levels of dust on the amenity of nearby existing or proposed sensitive land uses, subject to the implementation of appropriate mitigation measures identified in the Dust Impact Assessment and reflected in the suggested relevant planning conditions.
107. Air quality and health is not an issue for the Council but is a major concern for local residents and was reflected in many written and oral submissions and in evidence presented by the Rule 6 Party³⁰. The Dust Impact Assessment also included a PM₁₀ (particles less than 10 micrometres in diameter) assessment. This assessment assumed an additional load of 1 µg/m³ PM₁₀ attributable (as an annual mean) to the proposed operations in the existing background level. It identified that with the combination of 1 µg/m³ to the background concentrations the resulting total PM₁₀ and PM_{2.5} (particles less than 2.5 micrometres in diameter) annual average concentrations would remain well below the relevant Air Quality Objectives (AQOs). However, the Air Quality Review provided by the Rule 6 Party³¹ contends that the ES has downplayed the health effects of dust and the local air quality conditions and that recent evidence demonstrates that fine dust particles (PM₁₀ and PM_{2.5}) associated with mineral activities are also associated with adverse respiratory and cardiovascular effects on health.
108. The Appellant's Air Quality evidence provided at the Inquiry includes Defra data, based on 1km x 1km grid squares across the UK, that identifies background levels of annual mean background concentrations of PM₁₀ and PM_{2.5} as an average for each grid square. The maximum average background PM₁₀ and PM_{2.5} concentrations for the grid squares in which the proposed site is located are predicted to be substantially below the relevant AQOs (40µg/m³ for PM₁₀ and 25µg/m³ for PM_{2.5}), at 30% and 31% of the objectives in 2023.
109. The IAQM Guidance on mineral dust³² advises that where the long-term background PM₁₀ concentration is less than 17 µg/m³ there is little risk that additional contributions from a mineral site would lead to an exceedance of

³⁰ PoE Adrian Carlross

³¹ CD12.31

³² CD12.24, section 5.2

the annual mean air quality objective. The guidance advises that if this is the case then no further consideration is typically required. As noted above the Defra data predicts annual mean background concentrations of 11.18-12.01 $\mu\text{g}/\text{m}^3$ in the locality, i.e. well below the recommended screening value of 17 $\mu\text{g}/\text{m}^3$. On this basis, I accept that no further consideration of potential PM_{10} impacts from the proposed development would be required.

110. The Appellant's evidence also considers the cumulative contributions to PM_{10} concentrations from the proposals and the Lea Castle Village development. I accept the conclusions in this regard that in the worst-case scenario of extraction and restoration taking place in Phases 4 and 5 of the proposed development simultaneously with construction of the western part of the wider Lea Castle Village, PM_{10} concentrations are predicted to remain well below the relevant AQOs.
111. The Dust Impact Assessment also considered the HGV movements to and from the proposed development which would result in NO_x / NO_2 and PM_{10} emissions and hence potential adverse impacts on local air quality. This included atmospheric dispersion modelling of vehicle exhaust emissions and assessment of potential impacts at receptors near the affected local road network.
112. The Appellant's evidence on air quality³³ includes the current available mean concentrations of NO_2 data for 2023 for the grid squares in which the appeal site and surroundings are located. This shows that the maximum average background NO_2 concentrations for the grid squares in which the site is located are predicted to be substantially below the relevant objectives, at 20% of the objective in 2023. It also analyses the predicted traffic flows to and from the site. It concludes that the contribution of the proposed quarry related HGV exhaust emissions to the local air quality would not be significant. When the cumulative impacts of the Lea Castle Village are also considered, the predicted resulting concentrations of NO_2 , PM_{10} and $\text{PM}_{2.5}$ are predicted to be below the relevant AQOs at all modelled receptor locations.
113. A proportion of PM_{10} emitted from the proposed development could comprise respirable crystalline silica (RCS). Silica is a naturally occurring substance found in varying amounts in most rocks, sand and clay and the long-term inhalation of RCS may give rise to silicosis. There is understandably no evidence of what proportion of RCS may be emitted or how likely the extraction of the proposed minerals would generate RCS emissions as this cannot be determined with any degree of certainty. There is evidence that RCS risk is increased where minerals are crushed, whereas the appeal scheme proposes only screening. However, RCS is a recognised hazard for personnel working at quarries and was an emotive issue for local residents and the parents of pupils who attend local schools, particularly Heathfield Knoll School and First Steps Day Nursery.
114. There is no UK established or recommended ambient air quality standard for RCS nor is there any recommended methodology for the assessment for potential RCS emissions to ambient air or potential off-site impacts. The Health and Safety Executive advice³⁴ is that 'No cases of silicosis have been documented among members of the general public in Great Britain, indicating

³³ PoE Katrina Hawkins

³⁴ Appendix KEH10 PoE Katrina Hawkins

that environmental exposures to silica dust are not sufficiently high to cause this occupational disease’.

115. In my view the implementation of dust suppression measures in accordance with a Dust Management Plan would all serve to minimise the risk of any RCS emissions from the site. There is no compelling evidence that clearly demonstrates that the proposed development would pose a potential significant risk to the local population due to RCS.
116. The ES also included a Health Impact Assessment.³⁵ The scope of the assessment was agreed with the Council’s Public Health Team and Public Health England. It follows guidelines set out within the Health Impact Assessments in Planning Toolkit (Public Health, Worcestershire County Council) March 2016. The Health Impact Assessment concluded that with standard good practice, mitigation and standard working practices that significant adverse effects to population health would not occur.
117. The major concerns regarding RCS have been considered in detail by the Appellant. I am also mindful that no technical consultee has raised any concerns regarding the methodology used or the conclusions reached in the Dust Impact Assessment or The Health Impact Assessment. I therefore conclude that the proposal would be unlikely to have a significant adverse effect on public health with reference to air quality.
118. I now turn to consider whether, in the absence of objective justification for the public health concerns raised with respect to air quality, land use consequences would flow from the perception of harm. It is clear from the submissions made that a significant number of existing residents in the area are concerned at the potential air quality impacts. Understandably, relatively few who cite this concern have engaged on an evidential basis. However, taking into account my findings above, I consider that only limited weight is attributable to the perception of harm to public health.
119. Overall, I am 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. Consequently, I find no conflict with Policies MLP 28 and MLP 29 of the MLP or Policy WCS 14 of the WCS.

Character and appearance

120. The appeal site is not identified as being a ‘valued landscape’ for the purposes of paragraph 174 of the Framework and the surrounding local landscape does not have a statutory landscape designation. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA) which concluded that the landscape and visual effects resulting from the proposed development would be temporary, progressive and localised and not significant. It further identifies that progressive restoration to the post restoration scheme provides opportunities for both enhanced landscape, visual and amenity and wellbeing which will result in beneficial effects. It also concluded that there would be no adverse cumulative landscape or visual significant effects.

³⁵ CD1.15

121. I have considered the concerns raised by local residents, Wyre Forest District Council and CPRE regarding the effect of the proposed development on the character and appearance of the local area. The Council's original reasons for the refusal of planning permission did not identify that the proposals would have an unacceptable adverse landscape and visual impact. The SoCG confirms that the County Landscape Officer and the Hereford & Worcestershire Gardens Trust did not raise any objections to the proposed development. Whilst the Council contested in the Inquiry the impact of the proposals on Green Belt openness, it did not contend that the proposed development would be unacceptable in landscape and visual terms.
122. Taking into account my observations at the site visit and considering the evidence submitted in the Inquiry, I consider the LVIA to be comprehensive and robust. The proposal would result in a change in topography and landform (lowering ground levels) with progressive restoration utilising both in-situ material and imported inert materials. I concur that the site and its surroundings have a medium sensitivity to landscape change and that the magnitude of the effect of the proposed development on landscape character would likely be low to medium adverse. Overall, I consider that this would result in a moderate adverse effect that is not significant, particularly as the progressively restored landform, albeit slightly lower in parts, would reflect the general landform and gradients of surrounding land and that restoration would provide slight to notable benefits to landscape character.
123. In terms of visual impacts, the LVIA analyses the visual effect of the proposed development on 31 identified receptors which have the potential to view the current site and the proposed development. This was carried out digitally through the production of Zones of Theoretical Visual Influence (ZTVI) and includes users of PRow as well as the residents of properties who have the potential to view the site. The LVIA concludes that no visual receptors will receive a significant adverse effect during either the proposed development period or from the restored site and its subsequent agricultural and parkland activities.
124. I have carefully considered the effect of the proposed development, in particular the construction of the soil and overburden mounds, on the outlook of nearby residential properties. The Appellant's evidence submitted at the Inquiry assesses the impact of views of the proposed development from 8 properties comprising, the Equestrian Centre, Keepers Cottage, North Lodges, Castle Barns/White House, Four Winds, Broom Cottage, South Lodges and Brown Westhead Park (dwellings at northern end of road)³⁶. It describes how effects upon visual amenity would typically range from slight to moderate adverse and would not be significant.
125. I concur with the Appellant that it is appropriate to consider the separation distance between residential properties and the proposed bunds in the assessment of visual impact and effect on outlook. I also concur that screen bunds of equivalent height and separation distance to permanent buildings e.g., a row of terraced houses, would have a reduced effect upon visual amenity of nearby dwellings because they are temporary structures, and they do not have windows that impact privacy.

³⁶ PoE Neil Furber

126. In my view, taking into account the topography and intervening development, the Equestrian Centre Bungalow is the closest property whose outlook has the potential to be impacted the most by the presence of the proposed bunds. The separation distance between the western elevation of the Equestrian Centre bungalow and the crest of the nearest 5 to 6m high temporary screen bund would be approximately 62.5m, albeit the bund would be in place for only 9 months. There would be a clearly noticeable but temporary change in outlook resulting from the foreshortening and restriction of views to the wider landscape.
127. However, I accept the Appellant's argument that the separation distance between the bungalow and the screen bund would be well in excess of typical separation distances between existing and new residential development. In addition, the screen bunds on the appeal site would not exceed 6m in height, whereas two storey housing is typically 8m high to the ridge. Taking into account the separation distance, the temporary duration of the bunds existence and its height, I am of the view that there would be a moderate adverse overall effect on the outlook from the Equestrian Centre Bungalow but it would not be significant and not of an extent to justify the dismissal of this appeal.
128. I have also considered the visual effect of the construction of the proposed access and in particular the removal of a stretch of the former Lea Castle Park boundary wall adjacent to Wolverley Road. This would expose some views of the southerly bund around the plant site area. However, I am mindful that suggested condition No.13 would provide the basis for some degree of visual mitigation and the wall would be rebuilt in its former position and appearance as a part of the restoration scheme. Consequently, I do not consider that the temporary loss of a relatively short stretch of the wall would cause unacceptable visual harm to this section of Wolverley Road of an extent that would materially contribute to a dismissal of this appeal.
129. The proposed restoration scheme would deliver a number of landscaping improvements which I have set out earlier in this decision. Although the landform would broadly reflect the current slope profiles, the restored height of some parts would be lower than existing ground levels. However, I accept that, overall, the restoration scheme would deliver landscape benefits.
130. However, restoration of mineral workings to high environmental standards is a requirement set out in paragraph 211(e) of the Framework and reflected to some extent in local development plan policy. There is therefore an inherent policy requirement that mineral workings should have a high standard of restoration. The existing landscape is one of a former parkland and would be restored back to a parkland on completion of the restoration work, albeit with enhanced planting. Taking into account the policy requirements, I consider that the landscape benefits of the scheme should be afforded moderate weight in the planning balance.
131. Overall, in the absence of any other technical evidence to the contrary, I do not consider that the proposed development would have a significant adverse effect on the character and appearance of the site and the surrounding landscape of an extent to sustain the dismissal of this appeal on those grounds. Nor would any visual receptor receive significant adverse visual effects during the proposed development of an extent that would be

materially detrimental to living conditions. Consequently, there would be no conflict with Policies MLP 28 or MLP 33 of the MLP or WCS 12 and WCS 14 of the WCS.

Public Rights of Way

132. From my site visit and the evidence presented in the Inquiry, it is clear that the current PRow network that crosses the appeal site provide an important recreational facility for the local community as well as providing a direct route between Cookley and Wolverley.
133. There would be a temporary diversion of footpath WC-624 to facilitate the working and restoration of phases 1 and 2 of the proposed scheme. On completion of the working and restoration of Phase 2, this public right of way would be relocated to its original position and eventually upgraded to a bridleway as part of the restoration scheme. There would also be a closure of a short section of bridleway WC-626 for a period of approximately 1 to 2 weeks to facilitate the installation and removal of the conveyor tunnel. However, during these periods the bridleway would be diverted to the west.
134. During the Initial Works Phase, a new bridleway measuring approximately 2.3 kilometres in length would be provided around the southern and eastern boundary of the site. In addition, approximately 0.4 kilometres of permissive route is proposed to be provided as part of the final restoration works. The Council's Footpath Officer, the Wyre Forest District Council Countryside and Parks Manager, the Ramblers Association and the Malverns Hills District Footpath Society raised no objections to the proposals.
135. I have carefully considered the concerns of local horse riders that were expressed in the Inquiry. Notwithstanding the concerns regarding the extent to which the British Horse Society (BHS) were supplied with additional information, the fact remains that their position did not raise any material objections to the proposed development. On this basis, there are no substantive and compelling grounds for me to conclude that the proposal would be demonstrably detrimental to the interests of horse riders of an extent that would contribute to a sustainable reason to dismiss the appeal.
136. The proposed development will not lead to a loss of accessibility as the public rights of way remain useable, albeit for relative short periods of time on some diverted routes. Even so, the scheme would render some of the local PRow network less attractive whilst the site is being worked as a consequence of the proximity of some of the screening bunds which would cause the loss of some views along walking routes. However, the phased working means that only short sections of the PRow network would be impacted at any given time. Consequently, I consider that for the duration of the operation the proposed development would have an adverse effect on the PRow network but this would be of minor significance and would not constitute a reason to dismiss this appeal on those grounds.
137. The proposed additions to the PRow network during the initial works and on restoration would be mostly permanent and beneficial in terms of providing some more routes for users and so of some advantage. Overall, I find that the proposed development would, in terms of PRow, offer a benefit of minor significance, which should be given slight weight in the planning balance. In

this regard, I do not consider that there would be any conflict with the provisions of Policy MLP 30 of the MLP or Policy WCS 8 of the WCS.

Highway safety and the effect on the local highway network

138. The ES that accompanied the planning application included a Transport Statement³⁷ (TS) which was supplemented by further information, including a Stage 1 Road Safety Audit, during the Council's consideration of the proposal. The County Highways Officer raised no objections to the proposal, subject to the imposition of appropriate planning conditions relating to, amongst other things, the implementation of the submitted access design details, provision and maintenance of visibility splays and the submission of an HGV Management Plan.
139. Access would be provided via a new priority junction located on the north side of Wolverley Road and positioned approximately 220m east of the Sion Hill junction and 50m west of Broom Cottage. The proposed access has been designed with a kerbed central island and tight kerb radii to prevent HGV movements from turning left into the site and right out of the access and thus directing all HGVs to the A449.
140. The proposal would generate approximately 154 two-way HGV movements per full working day, which the Appellant indicates would equate to approximately 13 movements per hour. However, in my view, this represents a worst-case assumption as it makes no allowance for 'back hauling' of material.
141. The TS predicts that 60% of the development traffic would travel to/from the north and 40% to/from the south, which equates to 8 movements to the north and 5 movements to the south of the junction per hour during the network peaks. All trips would be required to travel through the Wolverley Road (B4189)/Wolverhampton Road (A449)/Parkgate Road (B4189) signalised junction. The evidence suggests that vehicles travelling to and from the site would use Wolverhampton Road (A449) or Stourbridge Road (A451). Vehicles travelling to and from the south would use Wolverhampton Road (A449). The Council indicates that both of these routes are identified as being suitable for HGV's, as advised on the Worcestershire Advisory Lorry Map.
142. The increase in traffic over the observed baseline flows on the B4189 Wolverley Road to the east of the proposed site access during the 5 day (Monday to Friday) period would be 1.8% and represent 7.6% of the observed day to day variations already occurring on the road during the same period. When considering the peak hour flows, the TS identifies that an additional 13 movements per hour represents an increase of approximately 1.3% of the existing baseline traffic flow during the peak hours and represents between 3.2% - 4.5% of the observed fluctuations in traffic currently experienced.
143. The TS refers to paragraph 2.10 of TD 41/95 'Vehicular Access to All Purpose Trunk Roads' which advises: "Generally, a material increase is considered to be if the turning traffic flows as a result of the development would increase by 5% or more...". The County Highways Officer also referred to this 5% threshold. I concur with the views of the Council and the Appellant that the increase in traffic volume on the link falls well below the 5% threshold and

³⁷ CD1.09

that the development traffic would represent less than 5% of the existing day to day variations experienced during the day and the peak hours.

Consequently, I do not consider that the proposed development would result in a material increase in traffic to the extent that a severe residual cumulative impact on the highway network would be caused.

144. The TS also considers the cumulative impact of the proposed development taking into account the permitted mixed development at the former Lea Castle Hospital site off Park Gate Road and also the permitted 91 dwellings off Stourbridge Road. It concludes that neither of these developments would compromise the acceptability of the proposed development in highway terms.
145. I have also taken into account the concerns of interested parties regarding the omission of some data in the TS and the consideration of most vulnerable road users (motorcycles, pedal cycles and pedestrians) and the potential for vehicles to exit and enter the site from the west should they choose to swing out into the opposing carriageway³⁸. Supplementary information³⁹ provided by the Appellant to address the omitted data. However, I do not consider that this introduces any material technical evidence to clearly demonstrate that the proposed development would be demonstrably detrimental to the safety of vulnerable road users of an extent that would be a sustainable reason to dismiss this appeal.
146. With regard to ingress and egress to the west, the supplementary information confirms that the site access design has been assessed using AutoTRACK, which is a standard software package for the consideration of highway access design. The AutoTRACK software plots presented at Figure 3 of the TS demonstrate that unless the HGV over-rides the kerbs at the access, it cannot physically turn to or from the west when leaving and entering the site respectively, even if using the full width of Wolverley Road. In addition, I recognise that in the event of this appeal being allowed, the subsequent design of the junction, pursuant to Section 278 of the Highways Act 1980, would require further Safety Audits and review by the Council.
147. Furthermore, the evidence of Mr Hurlstone confirmed that, the HGVs, which are either operator owned or under contract to the operator, would have trackers fitted so their position at any given time can be monitored, as can the vehicle's route. Such requirement could be made the subject of an appropriate planning condition such that vehicular access and egress routes could be monitored.
148. I have taken into account the concerns of the Rule 6 party regarding the potential congestion on local roads. However, I am satisfied that the technical evidence adequately demonstrates the ability of the highway network to accommodate the traffic associated with the proposed development. I have also taken into account the Air Quality Management Area (AQMA) declared on the Kidderminster Ring Road. Whilst I have considered air quality matters earlier in this decision, there is no evidence before me that would demonstrate that proposed traffic movements would have a demonstrable and unacceptable effect on the Kidderminster Ring Road AQMA.

³⁸ ID39

³⁹ ID48

149. In the absence of any other recognised technical evidence to the contrary, I am satisfied that the proposed development would not lead to unacceptable impacts on highway safety and would meet the recognised standards for achieving safe access, including safe stopping distances for all vehicles when taking into account HGVs, gradients and road surface conditions.
150. On the basis of the evidence provided in the Inquiry, I consider that the highway impact of the proposed development would be acceptable and would not amount to a severe residual cumulative impact. Consequently, there would be no conflict with Policy MLP 39 of the MLP, Policy WCS 8 of the WCS or Part 9 of the Framework.

Effect on the special interest of nearby heritage assets

151. Although the Council's reasons for the refusal of planning permission do not identify any concerns regarding the impact of the proposed development on designated heritage assets, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such assets within the context of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have had regard to the desirability of preserving or enhancing the designated heritage assets.
152. Technical Appendix H1⁴⁰ of the ES comprises an Archaeological Desk-based Assessment. This assessment considers the effect of the proposed development on archaeological and heritage assets within a 'Study Area' determined as being within 1km of the appeal site. Although there are assets located further afield, in my view, these are sufficiently distant from the appeal site or are affected by intervening development and/or have intimate settings such that they would not be affected by the proposed development.
153. The Assessment identifies that there are no statutory heritage assets located within the site. There are three Listed Buildings and one Conservation Area within the Study Area. There are no other statutory assets recorded in the Study Area.
154. The three Listed Buildings comprise the Grade II Listed Sion Hill House (NHLE 1100640), located approximately 250m south of the site; the Grade II Listed North Lodges and Gateway of Lea Castle (NHLE 1296589) located approximately 280m north-west of the site; and, Wolverley Court (NHLE 1172846) is a Grade II Listed house located on the edge of the study area about 500m west of the site. The Wolverley and Staffordshire Canal Conservation Area crosses the western part of the Study Area.
155. There are also twelve undesignated built heritage assets in the Study Area. Five additional heritage assets were identified on or close to the site during the course of this assessment. The two South Lodges (WSM04223) are located just outside the site boundary. They flanked the entrance to the former Lea Castle Estate. Both the southern lodges have been subject to various phases of sympathetic and unsympathetic extension. Animal sheds and threshing barn (WSM30493) are recorded at the Lea Castle Farm about 75m north-west of the site. These have been converted into residential accommodation. The Lea Castle Park is surrounded by a red brick boundary wall, which largely survives to the east, south, and west of the site (AHA01).

⁴⁰ CD1.11

Broom Cottage (AHA02) is an estate cottage, located on the southern boundary of the estate. Keepers Cottage (AHA03) is located about 150m north-east of the house. The remains of a ha-ha (AHA04) are visible under undergrowth adjacent to the northern site boundary. A lodge for Sion Hill House is located on the south side of Wolverley Road, opposite the south lodges for the Lea Castle estate (AHA05).

156. The remaining undesignated built heritage assets recorded in the Study Area are not associated with Lea Castle or the park, and as they are screened from the site they were effectively scoped out of further assessment because there are no identified potential impacts.
157. The Assessment identifies that there is no intervisibility between the appeal site and Sion Hill House and Wolverley Court or their landscape setting. Consequently, these heritage assets were effectively scoped out of further assessment as there are no identified potential impacts. With regard to the Conservation Area, the Assessment also identifies that there is no intervisibility between canal and the site. It further identifies that the site appears to be totally screened from the canal by mature trees and the natural topography. As such, this was also effectively scoped out of further assessment as there were no identified potential impacts. From my site inspection, I concur with the above views.
158. The Assessment identifies that there will be an impact on the setting of the Grade II listed North Lodges and the locally significant undesignated South Lodges, Lea Castle Farm, Broom Cottage and Keepers Cottage. However, all these heritage assets are broadly screened from the site by banks of woodland and as such any impact would be minor adverse, during mineral extraction. Furthermore, given that the proposal includes reinstatement of the site to agricultural activity, replanting the parkland avenues with rows of trees, and restoration of Broom Covert, the Assessment concludes that the long-term impact of the mineral extraction on the setting of these features is considered to be not significant.
159. It concludes that it is not anticipated that any designated assets recorded in the Study Area will be significantly affected by the proposed development, although there will be a minor adverse impact on the setting of the Grade II listed North Lodges and Gateway to Lea Castle, which is located about 250m away from the site boundary. However, it states that restoration of some of the parkland features, including tree lined avenues and Broom Covert will reduce the long-term impact of the mineral extraction to an insignificant level.
160. The Assessment states that, generally, the preservation of the former Lea Castle Park is poor and the proposed development would not directly impact on any of the surviving park features except the removal of a section of boundary wall to enable the access works and which would be reinstated as part of restoration works. As such, the impact of the development would not be significant on the former park.
161. With regard to archaeology, the Assessment considers that, overall, there is limited evidence of prehistoric and Roman activity in the study area. There is also limited evidence for early medieval and medieval activity in the study area. Evidence for any activity of the prehistoric, Roman, early medieval and medieval periods would likely be of local to regional significance. However, given the very limited representation of such material within the study area

the Assessment indicates that the potential for survival of assets dating to these periods within the site is low.

162. The Assessment states that historic mapping and other documents indicates that the site was developed as parkland around Lea Castle during the early 19th century. The park was sold off around the 1930s or 1940s and the parkland was converted to agricultural use which has compromised the value of the park. The western part of the site was also used as a grass landing strip. Consequently, any archaeological evidence from the post medieval and modern periods would probably relate to agriculture, parkland, and/or the landing strip and, therefore, are considered as only locally informative, and of low or negligible significance.
163. During consultations on the planning application Historic England stated that they did not wish to comment on the Assessment. Subject to the imposition of planning conditions where appropriate, the Wyre Forest District Council Conservation Officer, the Council's County Archaeologist and the Hereford and Worcester Gardens Trust raised no objections to the proposed development.
164. In concluding on this matter, I am of the view that the proposed development would lead to a temporary degree of harm to the setting of North Lodges and Gateway to Lea Castle, which should be considered as 'less than substantial'. In such situations, paragraph 202 of the Framework requires a balanced approach, with any 'harm' caused to the significance of the heritage asset being weighed against the public benefits of the proposal.
165. There would be minor harm to the setting of the locally significant undesignated South Lodges, Lea Castle Farm, Broom Cottage and Keepers Cottage. However, all these heritage assets are broadly screened from the site by banks of woodland and as such any impact would be minor. Consequently, taking into account paragraph 203 of the Framework, I consider that the proposed development would not have an unacceptable adverse impact on the setting of these non-designated heritage assets. The proposal would not harm the significance of the designated heritage asset of the Staffordshire and Worcestershire Canal Conservation Area.
166. I conclude that the benefits identified above relating to the supply of sand and gravel, and considered elsewhere in this decision, would outweigh the less than substantial harm that would be caused to the setting of the heritage asset. Consequently, the proposed development would not be in conflict with the relevant provisions of Policy MLP 32 of the MLP, Policy WCS 9 of the WCS, Policy SP.21 of the WFDLP nor with the relevant provisions of Part 16 of the Framework.

Effect on the Local economy

167. Interested Parties and the Rule 6 Party consider that the presence of an open quarry in the area would have a potentially significantly impact on the viability of nearby local businesses. This is because of the perception of visual harm and harm to health due to the proximity of the proposed development to existing local businesses, in particular the Heathfield Knoll School and First Steps Nursery, and the fact that a quarry will inevitably make the area less attractive to visit and thereby have a detrimental effect on the tourist economy and in particular the Brown Westhead Caravan and Camping Site. It was contended that the employment impact could be more significant than

the estimated jobs created and that this impact would inure over a longer term than the duration of the development.

168. There was no conclusive evidence provided in the Inquiry to make any reasonable judgement of the effect of the proposal on existing economic development in the local area. Whilst I accept that the proposed development would not provide many jobs, my attention was not drawn to any policy in the development plan that may set out a minimum level of jobs to be created in a development proposal.
169. I recognise the concerns that the proposal may be a detractor to parents who may be considering enrolling pupils at nearby schools. However, I am not convinced that these concerns would be likely to translate into material land use considerations if the appeal were to be allowed and the appeal scheme was regulated in accordance with the suggested planning conditions and an Environmental Permit issued by the Environment Agency.
170. It seems to me that the local concerns derive from a perception of harm. There is no evidence before me to conclusively demonstrate that quarrying activity has adversely affected economic development or housing demand elsewhere in the country. In this regard, many mineral extraction operations occur in National Parks or Areas of Outstanding Natural Beauty whose economies are particularly reliant on tourism.
171. The addition of 11 full-time employees at the quarry for up to 10 years would make a modest contribution to the local economy. The development enterprise would have some secondary or multiplier economic effects. Although the Appellant suggest that these would be substantial, there is no evidence to suggest that this would be a significant benefit to the local economy due to the specialist nature of some of the quarrying plant. In my view such local benefits would be modest, but nonetheless beneficial. Given the nature and scale of the proposed operation, I consider that the likely effect on the economy would be a benefit of minor significance.
172. Whilst the perception of harm to the local economy can be a material planning consideration, I am satisfied that, in the absence of any substantive evidence to the contrary, there would be no material harm to economic development interests or housing demand in the locality. In these circumstances, I consider that only limited weight is attributable to the perception of harm to the local economy and the effect on housing demand. In my view, the scheme would not give rise to a significant conflict between land uses in the area.

Other matters

Hydrology and Hydrogeology

173. The risk of groundwater pollution was not cited by the Council as a reason for refusal, but potential harm to the public water supply is of great concern to local residents.
174. The ES includes a Hydrological and Hydrogeological Impact Assessment⁴¹ (HHIA). This identifies that the appeal site boundary straddles the physical surface water catchments of the River Stour (Smestow Brook to River Severn)

⁴¹ CD1.13

to the north and the Blakedown Brook (source to River Stour) to the south, both being sub-catchments of the Stour and Tributaries EA Operational Catchment. It also identifies that the catchments within which the site is located do not form part of any Drinking Water Protected Area (DWPA_{sw}) or Safeguarding Zone for surface water (DWSZ_{sw}).

175. Analysis of the solid geology in the HHIA indicates that the site is underlain by the Sherwood Sandstone Group which forms the principal aquifer in the South Staffordshire and North Worcestershire Region. Superficial deposits of sand and gravel are located on the western half of the site whilst the eastern half of the site is mapped to be free of superficial deposit.
176. The proposed development would involve the extraction of superficial sand and gravel and underlying unconsolidated sandstones from a principal aquifer. The HHIA identifies that mineral extraction will be undertaken entirely within the unsaturated zone of the aquifer and the available data indicates that the lowest planned sections of extraction and subsequent infilling will reside between approximately 16m and 24m above the watertable. Screening has identified two mechanisms by which existing groundwater levels and flows may be affected by implementation of the proposed development. These comprise the potential for temporary modification of groundwater recharge due to stripping of overburdens and/or mineral extraction within the unsaturated zone, and the potential for long-term modification of groundwater recharge due to landfilling.
177. The HHIA identifies that there will be no significant change to the current rates or distribution of groundwater recharge and therefore there will be no discernible adverse impact upon groundwater levels and flows by any of the mechanisms identified by screening. The landfilling activities would be governed by the Environmental Permitting regime which would also include a further requirement for hydrogeological risk assessment and may require lining work to the ground prior to infilling or further controls regarding the nature of the inert fill.
178. The HHIA recognises that groundwater contamination could arise due to accidental spillage and/or undetected long-term leakage of potential contaminants. However, I concur that these are matters that can be controlled by the imposition of appropriate planning conditions. In this regard, I consider that suggested conditions 25 – 27 would provide an appropriate mechanism to manage such risks.
179. Whilst it is not necessary to go into further detail of the HHIA in this decision, it concludes that in view of the findings of assessment and the planned approach to the proposed development, which includes specific measures for the protection of the water environment, there are considered to be no over-riding hydrogeological or hydrological based reasons why the proposed development should not proceed in the manner described in the application.
180. Following the receipt of additional information, the Environment Agency and Natural England raised no objections to the proposed development subject to a groundwater and surface water level quality monitoring scheme being secured and the maintenance of proposed soakaways.

181. Interested parties have provided comments⁴² on aspects of the HHIA which I have carefully considered. These comment that the HHIA has not answered any of the main concerns from technical consultees and has only skirted around the subjects by reporting distances from sites and present rain fall in the area. Consequently, answers on how to mitigate problems if they should arise have not been provided.
182. I have placed considerable weight on the views of the Environment Agency with regard to the hydrological and hydrogeological matters. Subject to the imposition of appropriate planning conditions, I am satisfied that the concerns can be adequately controlled to the extent that there would unlikely be a detrimental impact on such matters. Whilst I recognise the detail that has been provided in the comments by interested parties, I do not consider that these would constitute a sustainable reason for the dismissal of this appeal in the light of the responses from the Environment Agency and Natural England. Consequently, I do not consider that the proposed development would be contrary to Policy MLP 37 of the MLP.

Convention Rights of a Child

183. Interested parties suggested that the proposed development would breach Article 8 of the European Convention on Human Rights and in particular Article 3(1) of the United Nations Convention on the Rights of the Child which provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
184. No clear and coherent evidence was presented to suggest how the Convention on the Rights of a Child may be breached. However, from the references made in written representations, I have interpreted such concerns to relate to the impact of the proposed development on human health as a consequence of the effect on air quality and dust emissions with particular regard to children using the PRow network and attending nearby schools.
185. I have had regard to case law in this matter and in particular *Jane Stevens v The Secretary of State for CLG [2013] EWHC 792 (Admin)* (paragraphs 56-69). I have found above that the proposed development would not result in unacceptable levels of dust and that maximum average background PM₁₀ and PM_{2.5} concentrations for the grid squares in which the proposed site is located are predicted to be substantially below the relevant AQOs. Furthermore, I have found that there is no compelling evidence that the proposed development would pose a potential significant risk to the local population due to RCS.
186. Whilst the Rights of a Child are capable of being a primary consideration that can be afforded significant weight, given my findings above, the evidence in this case indicates that the proposed development would not have an adverse material impact on children to the extent that would constitute a clear breach of rights under Article 8 and the United Nations Convention on the Rights of the Child. Moreover, no clear compelling competent evidence was presented in the Inquiry to describe in any substantive detail how such rights would be breached.

⁴² ID31

Planning conditions

187. I have considered the suggested planning conditions agreed between the Appellant and the Council. I have also taken into account the comments of the Rule 6 Party with regard to some of the conditions. In my view, the suggested conditions would meet the tests set out in the PPG and the Framework. It is not necessary for me to consider each individual planning condition in the context of this decision. However, I am satisfied that, where appropriate, the suggested conditions would adequately mitigate some of the impacts that I have identified earlier in this decision and, where necessary, I have set out the relevant condition that would address such impacts.

Planning Balance

188. I have found that, subject to appropriate planning conditions, 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. In addition, I do not consider that it would have a significant adverse effect on the character or appearance of the site and the surrounding landscape of an extent to sustain the dismissal of this appeal on those grounds, nor would any visual receptor receive a significant adverse effect during the proposed development of an extent that would be materially detrimental to living conditions.

189. I do not consider that the proposed development would cause a severe residual cumulative impact on the road network. Any increased risk to highway safety would be negligible, and so should not weigh in the planning balance. There would be no loss of accessibility to the PRoW network for the duration of the operations but there would be a loss of some open views that users would experience. However, I consider this, in planning terms, to be of minor significance but should be afforded limited weight. I consider that only limited weight is attributable to the perception of harm to the local economy.

190. However, I have found that 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 and should not be approved except in VSC. Consequently, it is necessary to consider whether the inappropriateness of the proposed development, and any other harm, is clearly outweighed in the planning balance by other considerations so as to amount to the VSC necessary to justify the development.

191. The Appellant set out in evidence what matters are considered to constitute VSC. It is clear that a seven-year landbank for sand and gravel cannot be demonstrated in the County. The appeal scheme would make a notable contribution to the supply of needed minerals which is a matter of substantial significance that should, in accordance with Paragraph 211 of the Framework, be given great weight.

192. The economic benefits of the proposed development, including the provision of a minimum of 11 full time jobs, would make a modest contribution to the local economy. In my view, these benefits should be awarded moderate weight.

193. I have also considered the temporary nature of the proposed development. I have afforded only slight positive weight to this matter as that is the nature of mineral extraction. It is a consideration in determining the quantum of any harm but cannot also be used as a factor to weigh in favour of a proposal in assessing whether VSC exist.
194. The landscape benefits of the scheme should be afforded moderate weight in the planning balance. The scheme would result in permanent enhancements to the PRoW network, which is a benefit that should be given some slight weight.
195. There is no dispute between the main parties that the proposal would deliver biodiversity net gain of +39.31%BU for habitats, and +107.51%hu for hedgerows. The net gain would be nearly 4 times that required by forthcoming legislation. 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.
196. I have found that there would be less than substantial harm to the setting of North Lodges and Gateway to Lea Castle. I have had special regard to the preservation of the setting of this heritage asset. I conclude that the benefits identified above outweigh the less than substantial harm that would be caused to the setting of this heritage asset.
197. Taking the above into account, there are clearly material planning benefits associated with the proposed development in addition to the great weight that should be attached to the supply of minerals. However, in this case I have found that the spatial position and contained nature of the appeal site emphasises its local importance in fulfilling Green Belt purposes and I have attached significant weight to this matter.
198. Although a phased development is proposed, the operations would be intensive and occupy considerable areas of the site at any one time for the purposes of extraction, infilling and bund placement/removal. Whilst some bunds will be grassed, they will nonetheless appear as engineered features that will not entirely assimilate into the landscape. 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. The proposed operations, due to their expansive nature within the confines of this site, would, in combination with the bunds, contribute to a loss of openness.
199. Furthermore, it is not possible for me to conclude with any degree of certainty whether or not there is a realistic possibility of the required 60,000m³ 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. Whilst this concern does not constitute a determinative reason to dismiss this appeal, it does add to my concerns regarding the effect on the openness of the Green Belt. Irrespective of this matter, I am of the opinion

that the proposed development before me would not preserve the openness of the Green Belt.

200. 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.

Conclusion

201. For the above reasons, based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR

ANNEX A

APPEARANCES

FOR THE APPELLANT:

Satnam Choongh

Counsel for the Appellant instructed
by Heaton Planning Limited on behalf
of NRS Aggregates Limited

He called

Rachel Canham BEng, MSc, CEng,
FIOA

Director Walker Beak Mason Limited
(WBM) Acoustic Consultants

Katrina Hawkins BSc, MSc, CENV,
MIES, MIAQM, MIEMA

Chairman, Smith Grant LLP
Environmental Consultants

Neil Furber BSc, DipLA, CMLI

Associate Director, HCUK Group Ltd

Jeremy Hurlstone BSc, CMILT, MCIHT

Managing Director, The Hurlstone
Partnership Limited

Liam Toland BA(Hons), MSc, MRTPI

Liam Toland Planning

FOR WORCESTERSHIRE COUNTY COUNCIL

Sarah Clover

Counsel for Worcestershire County
Council

She called

Christopher Whitehouse BSc, MRICS Managing Director, NextPhase

FOR STOP THE QUARRY CAMPAIGN (RULE 6 PARTY)

Sioned Davies

Counsel for the Rule 6 Party
instructed by Tim Partridge on behalf
of the Rule 6 Party

She called

Adrian Carloss

David Langford

Bill Houle FRICS

Mike Lord BA(Hons)

Rebecca Hatch

Matt Harthill

Tim Partridge MRTPI

INTERESTED PERSONS WHO SPOKE AT THE INQUIRY

Mark Garnier MP	Member of Parliament for Wyre Forest
Bryn Thomas	Headteacher Wolverley CE Secondary School
Vickie Crisp	Headteacher Cookley Sebright Primary School
Lawrence Collins	Headmaster Heathfield Knoll School
Councillor Marcus Hart	Wyre Forest District Council
Councillor Lisa Jones	Wyre Forest District Council
Joanna Phillips	Local Resident
Rebecca Vale	Local Resident
Gail Blunn	Local Resident
Chris Hathaway	Local Resident
Alex Badger	Local Resident
Jemma Powell-Tibbetts (accompanied by Evie and Ellie Powell-Tibbetts)	Local Residents
Councillor Simon Sherrey	Wolverley & Cookley Parish Council
Jan Porter	Local Resident
Katherine Evans	Hurcott Village (Management) Limited
Roger Perrin	Local Resident
Bill Houle	Speaking on behalf of Mr & Mrs McDonald
Maxine Huselbee	Local Resident
Joe Harvey	Local Resident
Jo Collins	Local Resident
Peter King	CPRE Worcestershire Branch
Bill Scriven	Local Resident
Julie Bradbury	Local Resident
Dean Talbot	Local Resident
Karen Anderson	Local Resident
David Jones	Local Resident
Liz Black	Local Resident
Councillor Fran Oborski	Wyre Forest District Council
Mick Parker	Local Resident
Andrew Webber	Local Resident
Judy Hinksman	Local Resident
Sheila Nock	Local Resident

ANNEX B**LIST OF DOCUMENTS SUBMITTED DURING THE INQUIRY**

Inquiry Document (ID)	Description of Document	Date Submitted
ID1	Opening Submissions on behalf of the Appellant	28.02.2023
ID2	Opening Submissions on behalf of Worcestershire County Council	28.02.2023
ID3	Opening Submissions on behalf of the Rule 6 Party	28.02.2023
ID4	List of Appearances on behalf of Rule 6 Party	28.02.2023
ID5	Submission by Wendy Patrick	28.02.2023
ID6	List of Appearances on behalf of the Appellant	28.02.2023
ID7	Transcript of Statement read by Mark Garnier MP	28.02.2023
ID8	Data supplied by Lawrence Collins	28.02.2023
ID9	Transcript of Statement read by Jemma Powell-Tibbetts	28.02.2023
ID10	Transcript of Statement read by Jan Porter	28.02.2023
ID11	Transcript of Statement read by Bill Houle on behalf of Mr & Mrs McDonald	28.02.2023
ID12	Photographs submitted by Maxine Huselbee	28.02.2023
ID13	Photographs submitted by Bill Scriven showing road alignment and road conditions	28.02.2023
ID14	Transcript Slides of Gail Blunn	28.02.2023
ID15	Transcript of Statement read by Joanna Phillips	28.02.2023
ID16	Transcript of Statement read by Councillor Lisa Jones	28.02.2023
ID17	Transcript of Statement read by Peter King (CPRE)	28.02.2023
ID18	Transcript of Statement read by Councillor Simon Sherrey	01.03.2023
ID19	Transcript of Statement read by Katherine Evans on behalf of Hurcott Residents Committee	01.03.2023
ID20	Health and Safety Executive (HSE) Webpage: 'Silicosis'	02.03.2023
ID21	OS Extract provided by Bill Houle	02.03.2023
ID22	Air Quality Management Area (AQMA) Plan of Kidderminster provided by Bill Houle	02.03.2023
ID23	Representation submitted by Lynne Reeves regarding the Little Horseshoe Bat	03.03.2023

ID24	Appellants response to representation by Lynne Reeves	03.03.2023
ID25	Extract from Sustainability appraisal for Worcestershire Minerals Local Plan	03.03.2023
ID26	Transcript of Statement read by Alex Badger	07.03.2023
ID27	Transcript of Statement read by Maxine Huselbee and Photographs	07.03.2023
ID28	Note submitted by Council providing clarification of pending sand and gravel planning applications	07.03.2023
ID29	High Court Decision Esmond Jenkins v Gloucestershire County Council v Moreton C Cullimore (Gravels) Limited, Cotswold Water park society, Environment Agency	07.03.2023
ID30	Representation submitted by Jeff Sadik	07.03.2023
ID31	Transcript of Statement read by Dean Talbot on the Hydrological and Hydrogeological Impact Assessment, Revision 5	07.03.2023
ID32	Transcript of Statement read by Mick Parker	07.03.2023
ID33	Transcript of Notes read by Andrew Webber	07.03.2023
ID34	Transcript of Statement read by Judy Hinksman	07.03.2023
ID35	Transcript of Statement read by Sheila Nock	07.03.2023
ID36	Transcript of Statement read by Dean Talbot on Health Issues, Revision 2	07.03.2023
ID37	Transcript of Statement read by Liz Black	07.03.2023
ID38	Transcript of Statement read by Councillor Orborski	07.03.2023
ID39	Additional highway safety notes provided by Andrew Webber	07.03.2023
ID40	Secretary of State for Environment, Transport and the Regions v Skerritts of Nottingham Ltd provided by the Council	07.03.2023
ID41	Representations submitted by Lisa Whittaker	08.03.2023
ID42	Transcript of Statement read by David Jones	08.03.2023
ID43	Note submitted by the Appellant regarding Permitted Landfill Sites in the County	08.03.2023
ID44	Transcript of Statement read by Karen Anderson	08.03.2023
ID45	Closing submissions on behalf of Worcestershire County Council	08.03.2023
ID46	Closing submissions on behalf of the Rule 6 Party	08.03.2023
ID47	Closing submissions on behalf of the Appellant	08.03.2023

ANNEX C

**LIST OF DOCUMENTS REQUESTED BY THE INSPECTOR AND SUBMITTED
AFTER THE CLOSE OF THE ORAL SESSIONS OF THE INQUIRY**

Inquiry Document (ID)	Description of Document	Date Submitted
ID48	Appellant response to highway matters raised by Andrew Webber (ID39)	13.03.2023
ID49	Rule 6 Party response to Appellant's note regarding Permitted Landfill Sites in the County (ID43)	20.03.2023
ID50	Council's comments on Note Provided by Appellant regarding Permitted Landfill Sites (ID43)	23.03.2023
ID51	Revised Schedule of Planning Conditions	28.03.2023
ID52	Rule 6 Party comments on the Revised Schedule of Planning Conditions (ID51)	03.04.2023
ID53	Appellant response to Rule 6 Party comments on the Revised Schedule of Planning Conditions (ID52)	19.04.2023

ANNEX D

CORE DOCUMENTS (CD)

CD1 – Original Submission	
CD1.01	Planning Application Form
CD1.02-	Planning Statement
CD1.03	Environmental Statement
CD1.04	Technical Appendix A – Landscape and Visual Impact Assessment
CD1.05	Technical Appendix B – Ecological Impact Assessment
CD1.06	Technical Appendix C – Pre-Development Tree Condition Survey
CD1.07	Technical Appendix D – Noise Assessment
CD1.08	Technical Appendix E – Air Quality and Dust Assessment
CD1.09	Technical Appendix F – Transport
CD1.10	Technical Appendix G – Agricultural Land Classification and Soils Resource Report
CD1.11	Technical Appendix H.1 – Archaeological Desk Based Assessment
CD1.12	Technical Appendix H.2 – Written Scheme of Investigation
CD1.13	Technical Appendix I – Hydrological and Hydrogeological Impact Assessment
CD1.14	Technical Appendix J – Leisure and Recreation Report
CD1.15	Technical Appendix K.1 – Health Impact Assessment
CD1.16	Technical Appendix K.2 – Matrix Health Assessment
CD1.17	KD.LCF.001 – Location Plan (October 2019)
CD1.18	KD.LCF.014 – Application Boundary / Other land in control of the applicant (October 2019)
CD1.19	KD.LCF.002 – Current Situation (October 2019)
CD1.20	KD.LCF.013 – Proposals Plan (October 2019)
CD1.21	KD.LCF.011 – Operational (Disturbed) Land (October 2019)
CD1.22	KD.LCF.021 – Plant Site Layout – Plan & Elevations (October 2019)
CD1.23	KD.LCF.022 – Plant Site – Conveyor running beneath PROW 62 6(B) (October 2019)

CD1.24	KD.LCF.003 – Initial Works (October 2019)
CD1.25	KD.LCF.004 – Phase 1 Working & Restoration (October 2019)
CD1.26	KD.LCF.005 – Phase 2 Working & Restoration (October 2019)
CD1.27	KD.LCF.006 – Phase 3 Working & Restoration (October 2019)
CD1.28	KD.LCF.007 – Phase 4 Working & Restoration (October 2019)
CD1.29	KD.LCF.008 – Phase 5 Working & Restoration (October 2019)
CD1.30	KD.LCF.009 – Final Works (October 2019)
CD1.31	KD.LCF.010 – Concept Restoration (October 2019)
CD1.32	KD.LCF.028 – Restoration Sections (October 2019)
CD1.33	Non-Technical Summary

CD2 – Initial Statutory Consultation Responses	
CD2.01	Western Power Distribution – 28.1.2020
CD2.02	Severn Trent Water – 12.2.2020
CD2.03	Historic England – 14.2.2020
CD2.04	Forestry Commission – 17.2.2020
CD2.05	Public Health England – 17.2.2020
CD2.06	West Mercia Police – 17.2.2020
CD2.07	Worcestershire Regulatory Services Air Quality and Contaminated Land – 19.2.2020
CD2.08	Herefordshire & Worcestershire Gardens Trust – 20.2.2020
CD2.09	County Ecology Comments – 24.3.2020
CD2.10	Canal & River Trust – 24.2.2020
CD2.11	Cllr Cook & Cllr Rayner – 26.2.2020
CD2.12	Cllr Cook & Cllr Rayner Additional Comments – 26.2.2020
CD2.13	Highways Comments – 26.2.2020

CD2.14	Kidderminster Town Council – 27.2.2020
CD2.15	Worcestershire Regulatory Services Noise and Dust – 27.2.2020
CD2.16	District Conservation Officer – 27.2.2020
CD2.17	District Countryside & Parks Manager – 27.2.2020
CD2.18	District Tree Officer – 27.2.2020
CD2.19	Campaign to Protect Rural England – 10.3.2020
CD2.20	Earth Heritage Trust 1 – 12.3.2020
CD2.21	Earth Heritage Trust 2 – 12.3.2020
CD2.22	North Worcestershire Water Management – 12.3.2020
CD2.23	Public Rights of Way – 16.3.2020
CD2.24	Wolverley & Cookley Parish Council – 16.3.2020
CD2.25	County Archaeologist – 18.3.2020
CD2.26	British Horse Society – 19.3.2020
CD2.27	Woodland Trust – 19.3.2020
CD2.28	British Horse Society – 20.3.2020
CD2.29	County Landscape – 20.3.2020
CD2.30	Worcestershire Wildlife Trust – 25.3.2020
CD2.31	The Garden Trust – 26.3.2020
CD2.32	Hereford & Worcester Fire and Rescue Service – 27.3.2020
CD2.33	Ramblers Association – 30.3.2020
CD2.34	Environment Agency – 31.3.2020
CD2.35	County Council Sustainability Team – 2.4.2020
CD2.36	Further Public Rights of Way Comments – 16.4.2020
CD2.37	Natural England – 1.5.2020
CD2.38	Worcestershire Regulatory Services Air Quality further comments – 27.5.2020
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CD12.14	Health Impact Assessment Checklist Matrix for 22/0404/OUT (Ref: "HIA Matrix for Planning" dated May 2022)
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CD12.18	Planning Practice Guidance Noise
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CD12.29	Wychavon DC v Secretary of State for Communities and Local Government & Butler [2008] EWCA Civ 692
CD12.30	Judgment, Mr Justice Burton Leicestershire County Council v Secretary of State for Communities and Local Government and UK Coal Mining Limited [2007] EWHC 1427 (Admin)
CD12.31	Air Quality Review: Lea Castle Farm, dated 2 March 2020
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CD13.24	Statement of Case for Stop The Quarry Campaign – Rule 6 Party – Planning Timeline
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Town and Country Planning Act 1990 – Section 78 Town and County Planning (Development Management Procedure) (England) Order 2015 Town and County Planning (Inquiries Procedure) (England) Rules 2002

Appeal by NRS Aggregates Limited

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

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

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

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

February 2023

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1. Introduction

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

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

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

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

2. The Appeal Proposals

- 2.1 The Appellant seeks full planning permission for proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement (Planning Application Reference: 19/000053/CM).
- 2.2 The proposed development is for sand and gravel extraction together with progressive restoration over approximately 26 hectares of land at Lea Castle Farm from two distinct areas – western and eastern areas. The western area measures approximately 12.5 hectares and the eastern area measures approximately 13.5 hectares, although the full extent of the red line application boundary is about 46 hectares.
- 2.3 Vehicular access to the application site would be via a proposed new access and internal haul road onto the Wolverley Road (B4189) in the south-eastern area of the site. This access would provide direct access to Wolverhampton Road (A449) towards Kidderminster and Stourbridge.
- 2.4 The Appeal proposal makes provision for the initial work to establish a new temporary access onto the B4189 Wolverley Road and Plant Site and subsequent phased extraction of sand and gravel and solid sand and its distribution. Extraction will be with concurrent with restoration of extracted areas utilising both in situ site soils and overburden and imported inert materials.
- 2.5 A total of circa 3 million saleable tonnes of sand and gravel will be extracted across an initial works period and five subsequent phases over the course of approximately 10 years. The mineral comprising circa 1.57 million tonnes of sand and gravel and 1.43 million tonnes of solid sand. The mineral will be transported to the plant site for processing utilising both dump trucks and a conveyor system. This scheme has been designed based on an annual processed tonnage of 300,000 saleable tonnes. This will provide a source of mineral to supply the building and construction industries with aggregates for products such as building sand, mortar sand, drainage materials and concreting sand and gravel supplying local and midland markets.
- 2.6 The plant site is proposed to comprise the following:
- The processing plant;
 - Office and weighbridge and wheel wash;
 - Stocks of product;

- 2 cylinders for a silt management/water cleansing system; and
 - Staff and visitor car parking.
- 2.7 The footprint of the operational processing plant site area would measure approximately 3.8 hectares and would be located about 7 metres below existing ground levels (plant site located at approximately 63.5 metres Above Ordnance Datum (AOD) and existing ground level at approximately 70.5 metres AOD, and surrounded by a soil storage / visual screening bund, which would measure approximately 3 metres high to the south and north and between 4 to 5 metres to the west, with higher ground to the east (up to approximately 80 metres AOD). An overburden bund (overburden is unsaleable materials such as clay or unsaleable silty sand that lies above the mineral) would be located within the north of the processing plant site area measuring approximately 6 metres high.
- 2.8 The phased extraction of all mineral would take place above the natural water table. The development will also include the restoration and enhancement of the site/local landscape setting and green infrastructure. A new agricultural parkland will be designed with the provision of an agricultural parkland, provision of approximately 2.3km of new routes of public footpaths, cycleways, bridleways and pocket parks. Native woodland blocks will be re-established to reflect previous social historic land uses, hedges will be strengthened, and new acidic species rich meadow grassland will be created.
- 2.9 To aid in this process c. 60,000 m³ of inert material will be imported onto site per annum, c. 600,000 m³ in total, to help create restoration formation levels onto which the original site soil profile will be placed. The Western Area of the site is proposed to be fully restored within 5 years of extraction commencing, with the Eastern Area restoration being fully completed within one year after the cessation of mineral extraction.
- 2.10 Land Aftercare and Management agreements will be established to ensure the restoration/enhancement measures are financially sustainable and permanent

Appeal Documents

- 2.11 The planning application was submitted to the Council in January 2020.
- 2.12 The following documents were submitted to the Council in support of the planning application:
- Planning Statement (PS) (CD1.02);
 - ES Volume 1 - Environmental Statement (ES) (CD1.03);

- ES Volume 2 – Technical Appendices (CD1.04-1.16);
 - Landscape and Visual Impact Assessment;
 - Ecological Impact Assessment;
 - Tree Condition Survey;
 - Noise Assessment;
 - Air Quality and Dust Assessment;
 - Transport Statement;
 - Agricultural Land Classification and Soil Resource Report;
 - Archaeological Desk Based Assessment;
 - Written Scheme of Investigation;
 - Hydrological and Hydrogeological Impact Assessment;
 - Leisure and Recreation Report; and,
 - Health Impact Assessment.

- ES Volume 3 – Planning Application Drawings and Forms (CD1.17 – 1.32); and
 - Location Plan KD.LCF.001;
 - Application Boundary / Other land in control of the applicant KD.LCF.014;
 - Current Situation KD.LCF.002;
 - Proposals Plan KD.LCF.013;
 - Operational Land KD.LCF.011;
 - Plant Site Layout – Plan & Elevations KD.LCF.021;
 - Plant Site – Conveyor running beneath PROW 62 6(B) KD.LCF.022;
 - Initial Works KD.LCF.003;
 - Phase 1 Working & Restoration KD.LCF.004;

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

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

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

- 2.14 A second Regulation 25 Request was made in June 2021, seeking further clarification to points regarding comments from the County Landscape Officer, Hereford and Worcester Gardens Trust, Wyre Forest District Council's Tree Officer and the British Horse Society (CD5.02 – 5.28).
- 2.15 A third and final Regulation 25 Request was made in January 2022 (requesting the submission of a Habitats Regulations Assessment (CD8.02 to 8.09).

Consultees

- 2.16 The Committee Report (CD10.01) details that technical matters were resolved to the satisfaction of the following consultees on the application, subject to the addition of conditions and/or obligations where appropriate:
- Wyre Forest District Council Conservation Officer;
 - Wyre Forest District Council Countryside and Parks Manager;
 - Environment Agency;
 - County Public Health Practitioner;
 - Worcestershire Regulatory Services;
 - County Highways Officer;
 - County Footpath Officer;
 - Ramblers Association and Malvern Hill District Footpath Society;
 - Sustrans;
 - Canal and River Trust;
 - Severn Trent Water Limited;
 - North Worcestershire Water Management;
 - Historic England;
 - County Archaeologist;
 - Natural England;

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

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

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

2.18 The British Horse Society raised no objections to the proposal, subject to all footpaths within the site being upgraded to public bridleways, the legal status and maintenance responsibility

for the proposed additional routes is confirmed, and the surface and dimension standards on the upgraded and additional routes are as required for public bridleways. Their objection related to the removal of the originally proposed upgrade of footpath WC-623 to a public bridleway. They stated that they were not objecting to the proposed quarry development but considered that the originally proposed upgrade to footpath WC-623 was a key element of their initial discussions with the applicant because it would deliver the benefit to riders of an access point on the western side of the site via Lea Lane. The proposed upgrade was revised following advice from the Council's public rights of way team.

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

3. Description of Appeal Site and Environs

- 3.1 The following site description is taken from paragraphs 84 and 85 of the Committee Report A full detailed site location can be found in the Planning Statement (CD1.02), Environmental Statement (CD1.03) and Committee Report (CD10.01).
- 3.2 The application site measures approximately 46 hectares in area and is primarily comprised of agricultural land (farmed for a variety of crop including potatoes, maize, barley and sugar beet), within the historic parkland setting of Lea Castle. The site is located approximately 2.3 kilometres north of Kidderminster town centre, approximately 700 metres and 890 metres east of the villages of Wolverley and Fairfield, respectively, and approximately 370 metres south of the village of Cookley.
- 3.3 The application site is located immediately to the north of the Wolverley Road (B4189), immediately to the west of the Wolverhampton Road (A449), and approximately 40 metres east of a residential estate road of Brown Westhead Park (U13246).
- 3.4 The following description of development is taken from paragraphs 939 to 942 of the Committee Report.
- 3.5 The proposed development is seeking to extract approximately 3 million tonnes of sand and gravel from approximately 26 hectares (although the full extent of the red line application boundary is about 46 hectares) on land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster. Extraction would take place at a rate of approximately 300,000 tonnes of sand and gravel per annum. The depth of extraction would vary as the base of the mineral deposit undulates but is anticipated to be typically between about 5 to 7 metres in the western area and about 7 to 12 metres in the eastern area, with a maximum depth of 18 metres. The site is proposed to be worked dry, above the water table, with no de-watering proposed. It is estimated that the site would be exhausted of mineral and restored within 11 years of the commencement of the development.
- 3.6 The land would be progressively restored using site derived and imported inert material to agricultural parkland, public access and nature enhancement. The land would be worked in a total of 6 phases (Initial Works, Phases 1, 2, 3, 4 and 5), beginning by working and setting up the processing plant site in the centre of the site, then commencing extraction in the western area working north to south, crossing over to the eastern area working south to north.
- 3.7 To restore the site the applicant is proposing to import approximately 600,000 cubic metres of inert material (equating to about 1,020,000 tonnes), importing approximately 60,000 cubic metre of inert material per annum (equating to about 102,000 tonnes per annum). Inert

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

- 3.8 The proposed restoration scheme includes the creation of a new agricultural parkland, providing approximately 2.7 kilometres of new public bridleways and permissive bridleways and 5 pocket parks. Native woodland blocks would be re-established to reflect previous historic land uses (approximately 3.42 hectares of additional native woodland, which equates to 9,750 woodland trees), approximately 439 metres of hedgerows would be strengthened, approximately 579 metres of proposed new hedgerow planting (3,474 hedging plants) and new acidic rich meadow grassland, measuring approximately 7.5 hectares in area would be developed to promote biodiversity and educational opportunities. In addition, the restoration scheme includes the planting of approximately 170 avenue and parkland trees reinstating the historic avenue of trees along bridleways WC-625 and WC-626.

4. Reasons for Refusal

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

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

5. Development Plan

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

Local Policy

- 5.2 The Planning and Compulsory Purchase Act 2004 defines the Development Plan as the Development Plan documents (taken as a whole) which have been adopted or approved in relation to that area.
- 5.3 The relevant statutory Development Plan for the appeal comprises:
- The Worcestershire Minerals Local Plan (adopted July 2022) (CD11.03);
 - Worcestershire Waste Core Strategy Development Plan Document 2012 – 2027 (Adopted November 2012) (CD11.04); and
 - Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022) (CD11.05).
- 5.4 It is noted that Reason for Refusal 1 relates to Policy 2 of the County of Hereford and Worcester Minerals Local Plan (Adopted April 1997), however, since the adoption of the Minerals Local Plan in July 2022, this Policy is now superseded and therefore, is no longer of relevance to the appeal proposal.
- 5.5 The following policies are considered relevant to the Appeal:
- The Worcestershire Minerals Local Plan (adopted July 2022):
 - Policy MLP 1: Spatial Strategy;
 - Policy MLP 3: Strategic Location of Development – Areas of Search and Windfall Sites Within the Strategic Corridors;
 - Policy MLP 7: Green Infrastructure;
 - Policy MLP 11: North West Worcestershire Strategic Corridor;
 - Policy MLP 14: Scale of Sand and Gravel Provision;
 - Policy MLP 15: Delivering Steady and Adequate Supply of Sand and Gravel;
 - Policy MLP 26: Efficient Use of Resources;

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

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

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

- Policy WCS 14: Amenity; and
- Policy WCS 15: Social and economic benefits.
- Wyre Forest District Local Plan 2016 – 2036 (Adopted April 2022):
 - Policy SP.2 - Locating New Development;
 - Policy SP.6 - Role of the existing villages and rural areas;
 - Policy SP.7 - Strategic Green Belt Review;
 - Policy SP.16 - Health and Wellbeing;
 - Policy SP.20 - Quality Design and Local Distinctiveness
 - Policy SP.21 - Historic Environment;
 - Policy SP.22 - Landscape Character;
 - Policy SP.23 - Protecting and Enhancing Biodiversity;
 - Policy SP.24 - Protecting and Enhancing Geodiversity;
 - Policy SP.27 - Transport and Accessibility in Wyre Forest;
 - Policy SP.28 - Green Infrastructure;
 - Policy SP.29 - Water Conservation and Efficiency;
 - Policy SP.30 - Sewerage Systems and Water Quality;
 - Policy SP.31 - Flood Risk Management;
 - Policy SP.32 - Sustainable Drainage Systems (SuDS);
 - Policy SP.33 - Pollution and Land Instability;
 - Policy SP.34 - Minerals;
 - Policy SP.35 - Waste;
 - Policy SP.37 - Renewable and Low Carbon Energy;
 - Policy DM.10 - Rural Employment;
 - Policy DM.22 - Safeguarding the Green Belt;
 - Policy DM.23 - Safeguarding the Historic Environment;
 - Policy DM.24 - Quality Design and Local Distinctiveness;

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

Other Material Considerations

- 5.7 Worcestershire Local Aggregates Assessment Data covering the period up to 31/12/2021 (January 2023) (CD11.06)
- 5.8 National Planning Policy Framework (NPPF)
- o The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied, and is a material consideration in the determination of this Appeal. Of particular relevance to this Appeal are the following Sections of the NPPF:
 - o Achieving sustainable development;
 - o Building a strong, competitive economy;
 - o Promoting sustainable transport;
 - o Protecting Green Belt land;
 - o Conserving and Enhancing the Natural Environment; and
 - o Facilitating the sustainable use of minerals.
- 5.9 National Planning Policy for Waste (NPPW) (2014).
- 5.10 National Planning Practice Guidance (PPG).
- 5.11 Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Minerals Dust. Impacts for Planning' (2016).
- 5.12 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

6. Planning History

- 6.1 Historically, the site formed a part of the c.220ha grounds of Lea Castle, which was built around 1762 and was demolished in 1945.
- 6.2 Planning permission was granted at Lea Castle Farm in May 1997 (WFDC ref. WF/0648/96) for the conversion of barns into eight dwellings, the erection of garages, construction of driveways, parking areas and new sewage treatment plant along with alterations to the existing access. In July 2001 planning permission was granted (WFDC ref. WF/0437/01) for the change of use of barns to 11 dwellings with the associated erection of garages, construction of hardstandings and new access drive. The permission was implemented and the dwellings are known as Castle Barns.
- 6.3 A planning application for the construction of two golf courses at Lea Castle Farm was first submitted to WFDC in March 1999. The application included the proposed construction of one 18-hole and one 9-hole golf courses, the erection of a clubhouse with ancillary facilities, the construction of a new vehicular access onto Castle Road, new driveways and parking facilities, a golf practice area, and the diversion of a public footpath. The application (WFDC ref. WF/0260/99) was refused at Planning Committee on 14th March 2000 and a subsequent appeal was withdrawn. However, an application (WFDC ref. WF/0211/01) was permitted by Committee on 17th July 2001 for 'construction of two new golf courses (18 hole and 9 hole), new clubhouse and ancillary facilities, new access to Castle Road, Cookley, new driveways and parking facilities, golf practice area and diversion of public footpaths'.
- 6.4 The planning permission for the construction of golf courses at the application site was not implemented. The July 2001 permission (WF/0437/01) remains the most recent significant permission issued for the application site.
- 6.5 In terms of mineral development, the site was promoted within the Third Stage Consultation of the now adopted Worcestershire Minerals Local Plan (14th July 2022). The site was assessed and considered appropriate to be allocated 'Preferred Area Status' under the title of Land North of Wolverley Road (submission reference DO26-2397). Although the Third Stage Consultation on the Minerals Local Plan included "specific site" and "preferred area" site allocations, this approach was not carried forward in the Fourth Stage or the Publication Version stage. The emerging Worcestershire Mineral Site Allocations DPD is likely to be go out for public consultation in Summer 2023.

7. Matters on which parties agree

7.1 The following matters are agreed between the parties:

Need and Landbank

- 7.2 It is agreed that Worcestershire currently does not hold a sufficient landbank of minimum seven years as required by paragraph 213 of the NPPF (CD 11.01). At the time of preparation of the Committee Report, the planning officer consulted the LAA published in June 2020, covering up to the period of 31st December 2017. The Planning Officer then used annual sales figures to estimate what the landbank would be at the end of December 2020, achieving a figure of 3.06 years.
- 7.3 The Local Aggregate Assessment (LAA) (published January 2023) covers the period up to 31 December 2021. The annual production guideline for sand gravel identified by the LAA (January 2023) is calculated as 0.827 million tonnes. Based on this production guideline and the stock of permitted reserves of approximately 3.42 million tonnes of sand and gravel, Worcestershire had a landbank of approximately 4.14 years on 31 December 2021.
- 7.4 Since 31 December 2021, the MPA granted planning permission the following sites:
- Western portion of the former) Sandy Lane Quarry, Wildmoor - Proposed importation of inert restoration material and extraction of approximately 245,000 tonnes of sand to enable engineering operations for stability purposes and completion of site restoration. Granted planning permission on 8 July 2022 (MPA Ref: 21/000029/CM, Minute No. 1102 refers). This increased the landbank by approximately 0.3 years
 - Ryall North Quarry, Land off Ryall's Court Lane, Ryall, Upton-upon-Severn – Proposed extraction of approximately 475,000 tonnes of aggregates with restoration to agriculture and lake suitable for water sports. Granted planning permission on 27 October 2022 (MPA Refs: 20/000009/CM and 20/000015/CM, Minute Nos. 1107 and 1108 refers). This increased the landbank by approximately 0.57 years
 - Bow Farm Quarry, Bow Lane, Ripple – Proposed extraction of approximately 1.44 million tonnes of sand and gravel with restoration using site derived and imported inert material to wetland, nature conservation and agriculture. Granted planning permission on 8 November 2022 (MPA Ref: 19/000048/CM, Minute No. 1115 refers). This increased the landbank by approximately 1.74 years.
- 7.5 Taking the above planning permissions into account and assuming production guideline for sand and gravel set out in the LAA (0.827 million tonnes) continued in 2022, then the

landbank of permitted reserves on 31 December 2022 would be approximately 4.75 million tonnes of sand and gravel, equating to about 5.74 years.

- 7.6 It is agreed that the Appeal site would contribute to a “balanced geographical spread of mineral reserves and provide an additional mineral site, contributing to a steady and adequate supply of mineral (sand and gravel) and adding to resilience to the mineral (sand and gravel) supply in Worcestershire, which is currently provided by a limited number of active sites” (Paragraph 379 of Committee Report).
- 7.7 As stated at paragraph 380 of the Committee Report, it is accepted that the Appeal Proposal is consistent with paragraph 213 (f) of the NPPF as it would contribute to the Mineral Planning Authorities landbank for sand and gravel. Therefore, this is a matter which is not in dispute as part of the Appeal.

Sustainability

- 7.8 When looking at the supply of mineral within a county a balanced spread of geographical location supply sources is very important in promoting sustainable development. Aggregates being bulky in nature, costly to transport / typically only transported about 30 miles from source. The closest county sand and gravel quarry to Kidderminster is Clifton Quarry, located circa. 24 miles away. It is agreed that the Appeal Proposal would help provide a balanced geographical spread of mineral supply sources.
- 7.9 Several permitted and proposed large-scale residential schemes are located within proximity of the Appeal Site. Large quantities of inert waste would arise from these large-scale schemes and the potential transport to and use of this material in the restoration scheme, aligns with the ethos of achieving sustainable development.

Ecology

- 7.10 It is agreed that a suite of ecological protection and enhancement works were submitted as part of the planning application. Natural England, Worcestershire Wildlife Trust and the County Ecologist had no objections to the proposal put forward subject to appropriately worded conditions.
- 7.11 As such, save for conditions, the parties agree that impact on ecology is not a matter in dispute between the Appellant and the MPA.

Noise

- 7.12 It is agreed that a Noise Impact Assessment (CD1.07) was submitted in support of the planning application. Worcestershire Regulatory Services, the statutory consultees with

regard to noise impacts, were satisfied that the Noise report confirms conditions to be within national guidance relating to noise and that the measured noise levels calculated were robust in isolation. Worcestershire Regulatory Services are satisfied that there are no adverse noise impacts associated with the proposed workings in isolation.

Landscape and Visual

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

Soils and Agricultural Land

- 7.14 It is agreed that an Agricultural Land Classification and Soil Resource Report (CD1.10) was submitted in support of the planning application, Natural England were consulted and raised no objection to the proposal in this regard. Furthermore, the Head of Planning and Transport Planning considers that subject to appropriate conditions being imposed relating to soil handling and placement, and a detailed aftercare scheme, then the objectives of the NPPF in respect of soils and their use in the restoration of BMV agricultural land would be met.
- 7.15 As such, save for conditions, the parties agree that this is not a matter in dispute between the Appellant and the MPA.

Archaeology and Cultural Heritage

- 7.16 It is agreed that a programme of archaeological work was submitted in support of this application. Historic England offered no comment other than to consult the County Conservation and Archaeologists. The County Archaeologist and the Wyre Forest District Council Conservation Officer has no objection to the proposal subject to conditions for a programme of archaeological work, including a Written Scheme of Investigation, provision made for analysis, publication and dissemination of results and archive deposition, and a scheme for the reinstatement of the historic boundary wall. Hereford & Worcester Earth Heritage Trust also do no object to the proposals.
- 7.17 As such, the parties agree that save for conditions, this is not a matter in dispute between the Appellant and the MPA.

Water Environment

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

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

Restoration

- 7.19 It is agreed that a Concept Restoration Plan (CD5.11) was submitted in support of the planning application.

Net Gain for Biodiversity

- 7.20 It is agreed that the submitted Restoration Plan and scheme outlined within the Environmental Statement (CD1.03) provides a Biodiversity Net Gain of approximately 39.1% (CD14.05) against the Metric 3.1 Baseline as calculated within the additional assessment provided under Regulation 25 in January 2023. The restoration was calculated as providing 87.21% Biodiversity Net Gain against the Metric 2.0 Baseline within the original assessment informing the Environmental Statement (CD5.08).

Climate Change

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

Alternatives

- 7.22 It is agreed that the approach taken to alternatives within the planning application is acceptable. Although the CPRE objected to the planning application, suggesting alternative mineral extraction sites, the Head of Planning and Transport Planning did not consider this an exceptional case where alternative schemes are relevant, particularly as there can be no confidence that an alternative scheme is a realistic prospect. Furthermore, the Head of Planning and Transport Planning notes the support of Policy MLP 1 which seeks to direct

mineral extraction within 'Strategic Corridors'; and Policy MLP 3 concerning the strategic location of development within 'Areas of Search', for both of which Lea Castle Farm is sited.

Cumulative Impacts

- 7.23 It is agreed that Cumulative Impacts have been considered as part of the planning application within the Environmental Statement (CD1.03).
- 7.24 It is agreed that the additional Cumulative Impact Assessment, prepared by the Appellant under the Regulation 25 request in February 2023, has provided sufficient information to determine that the proposal, in combination with other development, would not cause amenity harm with regard to noise or dust impacts to residential dwellings or Heathfield Knoll School and First Steps Nursery, subject to the implementation of proposed mitigation measures.

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

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

- The spatial and visual impact of the development on the openness of the Green Belt.
- The cumulative impact of the development in conjunction with adjacent development at Lea Castle Village as secured by consent 17/0205/OUTL and Wyre Forest Local Plan Policy SP.LCV1 on the purposes of the appeal site as Green Belt land across the lifespan of development.
- The appropriateness of the development in Framework terms and the requirement for consideration of very special circumstances taking into consideration Framework paragraphs 147, 148 and 150.
- The conflict of development with purpose a) unrestricted sprawl and c) encroachment of the Green Belt as defined by paragraph 138 of the Framework.
- The weight provided to individual material considerations sought to be considered in balance; including the weight prescribed to the contribution of the site to minerals supply, the economic benefits from job creation, biodiversity net gain benefit and the benefit applied to the restoration scheme.
- The developments accordance with Policy MLP 27 of the Minerals Local Plan, Policy WCS 13 of the Waste Core Strategy, Policy DM.22 of the Wyre Forest District Council Local Plan and relevant chapters of the Framework.

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

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


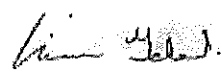
9. Reasons for refusal to not be defended by the Council within the Inquiry

- In the period since the decision notice was issued by the Council, the Worcestershire Minerals Local Plan has been adopted and the County of Hereford and Worcester Minerals Local Plan has been superseded. Reason for refusal 1 refers specifically to Policy 2 of the superseded Local Plan. No policy within the adopted Minerals Local Plan provides consistency with Policy 2, and as such reason for refusal 1 is not defended by the Council within the appeal.
- Having regard to the extant Development Plan and material considerations, Officers concluded that the proposal would not have detrimental impact on the local economy. The Council will therefore not be defending reason for refusal 4 (“unacceptable impact on the local economy”) within the appeal.
- Officers concluded that, subject to the implementation of appropriate planning conditions, the loss of 2 No. TPO trees would be sufficiently mitigated for. The Council will therefore not be defending reason for refusal 5 (“*Loss of 2 Tree Preservation Order (TPO) trees*”) within the appeal.
- Officers concluded that, on balance, the proposal would not offer harm to the quality of bridleways located within and adjacent to the site. The Council will therefore not be defending reason for refusal 6 (“unsuitable bridleway next to the Wolverhampton Road (A449)”) within the appeal.
- Both Officers and Worcestershire County Council Highways Authority concluded that, subject to the implementation of appropriate planning conditions, the proposal would not offer harm to the highways network. The Council will therefore not be defending reason for refusal 7 (“unacceptable impact on highways”) within the appeal.
- Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on the environment and wildlife. Having regard to the extant Development Plan and material considerations, the Council will not be defending reason for refusal 8 (“*unacceptable general impact on environment and wildlife*”) within the appeal.
- Officers concluded that, subject to the implementation of appropriate planning conditions, the proposal would not have a detrimental impact on the health of the local population. The Council will therefore not be defending reason for refusal 9 (“unacceptable impact on health of local population”) within the appeal.

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

10. Planning Conditions

10.1 The parties agree that should the appeal be allowed, and planning permission be granted the conditions referenced in the Committee Report (CD10.01) should be imposed subject to minor amendments and an amendment to the restoration scheme condition (referenced as condition 62 in the Committee Report), and an additional condition seeking to protect the TPO trees T9 and T10 in the western area of the site (see separate Schedule of Conditions):

Signed on behalf of Minerals Planning Authority		Signed on behalf of Appellant	
Organisation	Worcestershire County Council	Organisation	Heatons
Signature		Signature	
Name	Rachel Hill	Name	Liam Toland
Qualification	BEng (Hons)	Qualification	BA (Hons), MSc, MRTPI
Date	15/02/2023	Date	14/02/2023

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

Appeal by NRS Aggregates Ltd

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

Against the refusal of planning permission by Worcestershire County Council for
application 19/000053/CM

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

Appeal Ref. APP/E1855/W/22/3310099

Proof of Evidence of Liam Toland BA

(Hons) MSc, MRTPI – Planning

January 2023

Heatons
Planning Environment Design

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APPENDICES

Appendix 1 – Summary of Officer’s Findings

Appendix 2 – Cumulative Impact Assessment

Appendix 3 – Evidence of Mr J Hurlstone

Appendix 4 – Updated Ecological Walkover Survey and Biodiversity Net Gain Assessment

1 Introduction and Background to Appeal

1.1 Personal Details

- 1.1.1 My name is Liam Toland. I hold a Bachelor of Arts degree in History and Geography having graduated in 2003 and a MSc in Regional and Urban Planning having graduated in 2006. I am a Member of the Royal Town Planning Institute (MRTPI) since 2008. I have over sixteen years' experience in planning obtained through employment in the private consultancy sector.
- 1.1.2 From June 2013 to September 2022, I was employed by Heatons, being promoted to Planning Director in 2021. My work with Heatons has predominantly been in connection with the minerals and waste sectors, preparing planning applications and project managing EIAs for a range of developments including new and extensions to quarries covering a wide range of mineral types.
- 1.1.3 Since October 2022, I have set up my own company Liam Toland Planning, predominantly providing planning services to the minerals and waste sector. As such, I have good experience in the issues that are relevant to this Inquiry.
- 1.1.4 I have been involved in the application prior to its submission to WCC on 14 January 2020. I prepared the planning application and Environmental Statement and was involved through the determination period. I have visited the Appeal Site and the surroundings on several occasions and have examined the relevant plans and documents for the purpose of this Inquiry. I shall be giving general planning evidence covering various issues relating to National and local planning policy, and in particular the Green Belt and need considerations of the Appeal.

1.2 The Appeal Site and Surroundings

- 1.2.1 This is described in section 3 of the Statement of Common Ground (SoCG).

1.3 Planning History Relevant to the Appeal

- 1.3.1 The planning history of the appeal site is described in section 6 of the SoCG.

5 The need for Sand and Gravel

5.1 Introduction

5.1.1 NPPF paragraph 209, states *"It is essential that there is sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long term conservation"*. Paragraph 211 of the NPPF goes on to state, *"When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy"*. The NPPF at paragraph 211 indicates that great weight is to be afforded to mineral extraction, noting the contribution that the minerals sector makes to the UK economy. This is of significant note given how the NPPF describes sustainable development in paragraph 8 whereby the economic objective is to help *"build a strong, responsive and competitive economy"* and a social objective seeking to *"support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations"*. Without an adequate supply of minerals, the "homes"(as referred to under paragraph 8 of the NPPF under sustainable development) cannot be built.

5.1.2 The NPPF at paragraph 213 indicates that "minerals planning authorities should plan for a steady and adequate supply of aggregates". A key tool for doing this is the maintenance of landbanks, which for sand and gravel is 7 years.

5.1.3 There are two important points that flow from paragraph 209:

1. Minerals can only be worked where they are found as set out above in relation to the site's location in the Green Belt; and
2. A sufficient supply is essential.

5.2 Landbank/Productive Capacity Position in Worcestershire

5.2.1 The NPPF at paragraph 213 requires Mineral Planning Authorities to maintain a landbank of at least 7 years for sand and gravel.

5.2.2 With regard to sand and gravel production, as set out in the SoCG, Worcestershire currently does not hold a landbank of minimum seven years as required by paragraph

213 of the NPPF. The SoCG also states the following:

“7.2 It is agreed that Worcestershire currently does not hold a sufficient landbank of minimum seven years as required by paragraph 213 of the NPPF (CD 11.01). At the time of preparation of the Committee Report, the planning officer consulted the LAA published in June 2020, covering up to the period of 31st December 2017. The Planning Officer then used annual sales figures to estimate what the landbank would be at the end of December 2020, achieving a figure of 3.06 years.

7.3 The Local Aggregate Assessment (LAA) (published January 2023) covers the period up to 31 December 2021. The annual production guideline for sand gravel identified by the LAA (January 2023) is calculated as 0.827 million tonnes. Based on this production guideline and the stock of permitted reserves of approximately 3.42 million tonnes of sand and gravel, Worcestershire had a landbank of approximately 4.14 years on 31 December 2021.

7.4 Since 31 December 2021, the MPA granted planning permission the following sites:

- Western portion of the former) Sandy Lane Quarry, Wildmoor - Proposed importation of inert restoration material and extraction of approximately 245,000 tonnes of sand to enable engineering operations for stability purposes and completion of site restoration. Granted planning permission on 8 July 2022 (MPA Ref: 21/000029/CM, Minute No. 1102 refers). This increased the landbank by approximately 0.3 years*
- Ryall North Quarry, Land off Ryall's Court Lane, Ryall, Upton-upon-Severn – Proposed extraction of approximately 475,000 tonnes of aggregates with restoration to agriculture and lake suitable for water sports. Granted planning permission on 27 October 2022 (MPA Refs: 20/000009/CM and 20/000015/CM, Minute Nos. 1107 and 1108 refers). This increased the landbank by approximately 0.57 years*
- Bow Farm Quarry, Bow Lane, Ripple – Proposed extraction of approximately 1.44 million tonnes of sand and gravel with restoration using site derived and imported inert material to wetland, nature conservation and agriculture. Granted planning permission on 8 November 2022 (MPA Ref: 19/000048/CM, Minute No. 1115 refers). This increased the landbank by approximately 1.74 years.*

7.5 Taking the above planning permissions into account and assuming production

guideline for sand and gravel set out in the LAA (0.827 million tonnes) continued in 2022, then the landbank of permitted reserves on 31 December 2022 would be approximately 4.75 million tonnes of sand and gravel, equating to about 5.74 years."

5.2.3 The Appellant accepts that the landbank position has improved since the preparation of the committee report (CD10.01), due to the granting of a number of planning permissions but is still below the required 7 years.

5.2.4 I set out below my understanding of the sites contributing to the landbank:

- Chadwich Lane Quarry
 - Planning Permission granted on 26 March 2021 (Ref: 18/000036/CM) for the extraction of 1.35 million tonnes of sand to be extracted at 100,000 tonnes per annum.
- Wildmoor Quarry
 - Site currently operates under ROMP Permission Ref: 107104 approved on 20 July 1999; and
 - Remaining in-situ mineral equates to approximately 294,250 tonnes with mineral production from Wildmoor Quarry being approximately 150,000 tonnes (Scoping Request Ref: 21/000043/SCO).
- Clifton
 - Most recent planning permission (Ref: 15/000006/CM) was granted 12 July 2016, consolidating the existing quarry and new extensions into one permission; and
 - 2.2 million saleable tonnes of sand and gravel was to be extracted over a course of about 11 years with an end date of 31 December 2030 (stated on planning permission).
- Ryall North
 - The most recent planning permission was approved on 27 October 2022 (Ref: 20/000009/CM) for a northern extension to extract 475,000 tonnes of sand and gravel;
 - The Committee report for the application sets out that mineral extraction would be likely to commence in early 2023, with mineral

extraction within the current quarry likely exhausted by the end of 2022;
and

- o Extraction is at a rate of approximately 300,000 tonnes per annum, therefore taking less than 2 years to complete.

- Bow Farm

- o Application reference 19/000048/CM was approved on 8 November 2022 to extract 1.44 million tonnes of sand and gravel (This site is contingent on planning permission being granted for site access and processing plant within Gloucestershire which is due to be considered by Gloucestershire County Council's planning committee on 26th January 2023); and
- o Extraction is proposed to be at a rate of 250,000 tonnes per annum, giving the site an estimated lifespan of under 6 years.

- Sandy Lane

- o Application reference 21/000029/CM, for the extraction of sand (245,000 tonnes) to enable engineering operations for stability purposes and completion of site restoration was approved on 08 July 2022; and
- o It is estimated that the 245,000 of sand will be extracted over a 3 year period.

5.2.5 As set out in the SoCG, *"the landbank of permitted reserves on 31 December 2022 would be approximately 4.75 million tonnes of sand and gravel, equating to about 5.74 years"*. The Appeal development would add 3.6 years to the landbank, making it compliant with paragraph 213 of the NPPF.

5.2.6 It is also worth noting that there is less than 2 years remaining within Ryall North and Wildmoor quarries, which equate for around 25% of the County's annual productive capacity. Lea Castle Farm would also help plug this loss of productive capacity.

5.2.7 It should also be noted that 3 further mineral planning applications are pending determination:

- Wilden Lane

- - Application reference 21/000036/CM, to extract 250,000 tonnes of sand was registered on 05 August 2022.
 - Pinches 4
 - Application reference 19/000056/CM, to extract 850,000 tonnes of sand and gravel was registered on 07 January 2020
 - Ripple East
 - Planning application reference 22/000015/CM was registered on 22 March 2022 to extract 475,000 tonnes of sand and gravel

5.2.8 If these planning applications are permitted, they would increase the landbank by 1.9, which would be above the required landbank of at least 7 years for sand and gravel at 7.64 years. However, it should be noted that sales of sand and gravel would continue until the above are potentially permitted and become operational (which could be over 2 years away), so the landbank would be likely to be less than the required landbank of at least 7 years.

5.2.9 In terms of allocations, the emerging Mineral Site Allocations Development Plan Document is at a very early stage. Therefore, given the lead in time for the adoption of the Site Allocations Plan together with the length of time for any allocation to get planning permission will mean that the landbank will not be able to be compliant with the NPPF for a number of years if this Appeal is dismissed.

5.2.10 In summary therefore based on the evidence that I have presented above, I conclude the following:

 1. There is a shortfall in sand and gravel supply in Worcestershire; and
 2. This appeal proposal meets that immediate need.

5.2.11 These factors combine to show a compelling case on need for the appeal site now.

5.3 Lea Castle Farm Mineral Qualities

- 5.3.1 Detailed geological investigations were carried out in October 2015 and January 2016. An overview of the geological conditions found following detailed investigations is provided in the ES (CD1.03).
- 5.3.2 The results from the investigations have confirmed that workable deposits of sand and

gravel are present across the site, together with substantial reserves of weathered bedrock sandstone (Solid Sand), which could be worked on the site.

- 5.3.3 Laboratory testing of the sand and gravel samples collected during the borehole drilling investigations confirms that the sand and gravel would be suitable for a range of construction and ready mix concrete products. Laboratory testing of Solid Sand confirms that the material is mainly fine to medium grained and would be suitable for a range of mortar, concrete and building sand end uses.
- 5.3.4 In 2008, the British Geological Survey in their report *"the need for indigenous aggregates production"*, estimate that each new home built in England including an associated proportion of roads and utilities requires as much as 400 tonnes of aggregates. Given the relative proximity of the proposed quarry site to the nearby Lea Castle Village housing and mixed-use development/allocation, the quarry could offer significant sustainability benefits in transportation/ highway limiting distance of journeys and time and flexibility with construction.

5.4 Conclusions

- 5.4.1 The Government's Planning Practice Guidance (PPG) (Paragraph Reference ID: 27-082-20140306) states *"for decision-making, 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"*. Notwithstanding this, as indicated by the PPG (Paragraph Reference ID: 27-084-20140306) *"there is no maximum landbank level and each application for mineral extraction must be considered on their own merits regardless of length of the landbank. However, where a landbank is below the minimum level this may be seen as a strong indicator of urgent need"*.
- 5.4.2 It is agreed with the Council that Worcestershire currently does not hold a sufficient landbank of a minimum seven years as required by paragraph 213 of the NPPF. As set out above, even with recent planning permissions, the County does not have a 7 year landbank for sand and gravel. The Lea Castle Quarry proposals will add a further 3 million tonnes of sand and gravel to the County landbank, equating to just over 3.5 years. Lea Castle Farm Quarry could ensure continuity of sand and gravel supply whilst Worcestershire County Council progress with the site allocations document, securing the long term supply of sand and gravel for the County.

- 5.4.3 The site is located within a strategic corridor and within an area of search as set out in the adopted Minerals Local Plan. Policy MLP 3: 'Strategic Location of development – Areas of Search and Windfall Sites within the Strategic Corridors' states that:
- "a) planning permission will be granted for new mineral developments and extensions to extant sites within allocated areas of search where there is a shortfall in supply as demonstrated by Part c)"*.
- 5.4.4 Part c) of the draft policy states: *"a shortfall in supply for a broad mineral type will be considered to exist where: i) 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..."*.
- 5.4.5 This section demonstrates that the landbank is below the minimum of 7 years for sand and gravel, which demonstrates that there is a shortfall in supply.
- 5.4.6 Further to the above, the nature of the geology of the quarry with a variety of sand and gravel and solid sand, offers a wide product range for construction including building sand, concrete, mortar and drainage material from a sustainable location for supplying the site.
- 5.4.7 Given all of the above, I consider that there is a clear need for the development and that the provision of sand and gravel to the Worcestershire landbank carries very significant weight in favour of the scheme and is a VSC.

6 The Need for Inert Waste Disposal

6.1 Introduction

- 6.1.1 To restore the site and help create restoration formation levels, the Appellant is proposing to import approximately 600,000 cubic metres of inert material (circa 1,020,000 tonnes) at a rate of approximately 60,000 cubic metre (circa 102,000 tonnes per annum) per annum. The imported inert material would consist of clean excavated materials consisting of clays, overburden and soil making material.
- 6.1.2 The Appellant, NRS group of companies are one of the largest independent suppliers of aggregates and waste management operators within the Midlands. Following the applicant's formation in 2005, NRS group now operate across the Midlands with over 70 people employed by the business in the haulage, road sweeper, waste management and quarrying facets of the business. The applicant supplies over 1 million tonnes of aggregates per annum to customers and runs a large fleet of vehicles ranging from tippers to concrete mixers, and also runs some of the largest inert tipping facilities, quarrying and recycling aggregate production operations in the Midlands.

6.2 Policy Context

- 6.2.1 Policy MLP 26: 'Efficient Use of Resources' of the adopted Minerals Local Plan states that *"mineral development will be permitted where it is demonstrated that the proposed development will make efficient use of natural resources. A level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime, the proposed development will... c) balance the benefits of maximising extraction with any benefits of allowing sterilisation of some of the resource, taking account of... v) the appropriateness of importing fill materials on to site, and the likely availability of suitable fill materials"*.
- 6.2.2 Policy WCS 5 of the adopted Worcestershire Waste Core Strategy identifies that no capacity gap has been identified for the landfill or disposal of waste. The Policy then states that planning permission will not be granted for the landfill or disposal of waste except where it is demonstrated it meets one of the 3 listed criteria. In this instance, it is considered that Part iii) is relevant, which states *"the proposal is essential for operational or safety reasons or is the most appropriate option"*. Paragraph 4.45 of the

it is not part of the Appellant's case, or my evidence, to suggest that the development will not cause any environmental or amenity effects.

10 Very Special Circumstances

10.1 Introduction

10.1.1 It is my view the Appeal Proposal is not inappropriate development in the Green Belt. If that is accepted, the principle of the proposal is in full accord with the Development Plan. In light of my evidence above that addresses the potential specific impacts of the proposals, the development as a whole is in accordance with the Development Plan. There are no material considerations that indicate that the decision should be taken otherwise than in accordance with the Development Plan. Accordingly this development should be approved 'without delay' (NPPF para. 11(c)).

10.1.2 However, should the Inspector conclude that the proposals constitute inappropriate development, I set out below that VSC exist to overcome the 'great weight' attached to protecting Green Belts.

10.1.3 It is noted that VSC also need to outweigh any 'other harms' that the proposal may cause. As has been demonstrated through the Environmental Statement, noted in the Committee Report and set out in the evidence of Mr Neil Furber, Ms Rachel Canham, Ms Katrina Hawkins, Mr Jeremy Hurlstone and Ms Justine Walsh, other harms, after mitigation, or through regulatory control imposed by planning conditions, are minor (not significant) and would not run contrary to the Development Plan policies. As such I conclude that the Appeal Scheme does not give rise to 'any other harm' (NPPF, 148).

10.1.4 It is noteworthy that in review of the Minutes of the Committee Meeting (CD10.03) and despite the Council considering that the proposal is inappropriate development in the Green Belt, they appear to have given no consideration to VSC to overcome this harm.

10.1.5 In this section, I set out what I consider constitutes VSC:

- The need for the proposed development with particular regard to the landbank position for sand and gravel;
- Environmental and Sustainability benefits;
- Development, Growth and Economic Considerations; and
- Restoration and biodiversity benefits.

10.2 Mineral Need

- 10.2.1 As has been clearly set out in Section 5 of my evidence, there is a demonstrable and urgent need for the release of new mineral reserves in Worcestershire to ensure that there is a "steady and adequate supply of aggregates" and "maintenance of the landbank". It is agreed with the Council that the landbank is below 7 years. As noted in paragraph 084 (Reference ID: 27-084-20140306) of the Planning Practice Guidance, *"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"*.
- 10.2.2 The Lea Castle Quarry proposals will add a further 3 million tonnes of sand and gravel to the County landbank, over a period of 10 years. Lea Castle Farm Quarry could ensure continuity of sand and gravel supply whilst Worcestershire County Council progress with the site allocations document, contributing to the security of the long term supply of sand and gravel for the County.
- 10.2.3 Given the above, I consider that there is a clear need for the development and that the provision of sand and gravel to the Worcestershire landbank is a VSC. Para. 211 of the NPPF is unequivocal: 'great weight should be given to the benefits of mineral extraction, including to the economy'.

10.3 Environmental and Sustainability Benefits

- 10.3.1 There are many environmental and sustainability benefits to the proposed development at Lea Castle Farm, namely:
- Unique logistical position in the marketplace, as Worcestershire has a clear divide in available resource. The northern half of the County in which the Appeal Site is located contains the solid sands (building and mortar markets) with the concreting sand and gravels from the terrace and glacial deposits in the south of the county. However, this site is unique in that there is resource of concreting sand and gravels from the western half of the site with the solid sands to be extracted from the eastern half of the site. The two different resources serve different and distinct markets. Their location within the county would affect the distance they need to travel to market as well as the demand

/ pull on resources from outside the county to meet demand. The number of active and permitted sites (but non-operational) sites are also small in number which may affect the distance the reserves travel to market;

- When looking at the supply of mineral within a county a balanced spread of geographical location supply sources is very important in promoting sustainable development. Aggregates being bulky in nature, costly to transport / typically only transported about 30 miles from source. The closest county sand and gravel quarry to Kidderminster is Clifton Quarry, located circa. 24 miles away. The Appeal Proposal would help provide a balanced geographical spread of mineral supply sources; and
- A further key consideration is the number of proposed and permitted large-scale residential schemes in close proximity to the Appeal Site. Given the relative proximity of the proposed quarry site to the nearby Lea Castle Village housing and mixed-use development/allocation, the quarry could offer significant sustainability benefits in transportation/ highway limiting distance of journeys and time and flexibility with construction. Furthermore, large quantities of inert waste would arise from these large-scale schemes and the potential transport to and use of this material in the restoration scheme, aligns with the ethos of achieving sustainable development.

10.3.2 On the basis of the above, I consider the environmental and sustainability benefits of the scheme to represent VSC.

10.4 Development, Growth and Economic Considerations

National Sales Trends for Aggregates

10.4.1 The minerals products industry is a vital enabling sector of the UK economy, which has a broad impact on overall economic activity. As the largest element of the construction supply chain, a supplier of key materials to many other industries, and the largest material flow in the UK economy, a healthy domestic mineral products industry is essential for the UK.

10.4.2 The NPPF (para. 81) is unambiguous that the planning system should support sustainable economic growth and that this should attract significant weight in planning decisions.

Development and Growth

10.4.3 At the national level, Government statements and policy have outlined the need for investment to provide the engine for growth and recovery of the economy in these exceptional times. The government has been absolutely consistent through the Brexit transition period and the pandemic about the scale of investment that it is proposing in infrastructure and the publication, in November 2020, of the National Infrastructure Strategy confirms that £27 billion will be invested in economic infrastructure in 2021/22 alone, with the clear aims of achieving the following:

- To boost growth and productivity – this will require minerals to build the infrastructure proposed so now is not the time for Worcestershire to have a shortfall in supply;
- Putting the UK on the path to achieving its net zero emissions target – so now is not the time to be increasing the mileage that mineral such as that at Lea Castle Farm has to travel;
- Supporting private investment in the UK – so now is the time to support a local industry; and
- Accelerate and improve delivery of infrastructure projects – so again now is not the time for Worcestershire to have a shortfall in supply.

10.4.4 Therefore, the Government is committed to investing in infrastructure, which will require minerals and as a company, NRS are already seeing evidence of a commitment to building and infrastructure spend.

The Appellant and economic considerations

10.4.5 The appeal proposal at Lea Castle Farm would create 11 jobs for approximately 10 years. Furthermore, and notwithstanding the identified need for sand and gravel (as set out in section 5), the proposed quarry would provide a significant contribution to the local economy. Based on costs associated with 2 of the Appellant's quarries at Sarendon and Woodcote, local expenditure in year 1 would be in the realms of 5 – 7 million pounds for items such as purchase of plant, purchase of offices, weighbridge and maintenance, construction costs, payments to land owners, highway access, security installation.

10.4.6 Further to this and in terms of yearly/ongoing costs, again based on Sarendon and

Woodcote quarries, it is estimated that this contribution would equate to between 6 – 7 million per annum on items such as aggregates levy, business rates, direct labour, equipment hire/haulage costs, maintenance, security, Plant/transport repairs & running costs, sales and administration costs and restoration costs.

10.4.7 This would represent a significant boost to the local economy.

10.4.8 Also, the extractive industries (i.e. mining and quarrying) are much more capital intensive than other sectors of the British economy and have very high levels of labour productivity (measured by Gross Value added per employee). Gross value added (GVA) is defined by the Office for National Statistics (ONS) AS “the contribution to the economy of each individual producer, industry or sector.”

10.4.9 Whilst directly employing 81,000 people and supporting 3.5 million jobs through its supply chain in 2018, the mineral products industry is also a highly productive industry: each worker produced over £71,000 in gross value added in 2018, equivalent to 1.2 times the national average (C12.01). The mineral products industry represents very good value to the economy and contributes positively to economic growth.

10.4.10 In addition to high GVA, CD12.01 sets out that the Mineral Products Industry directly contributed to the UK economy by generating over £5.8bn in gross value added in 2018 (figure 2.2a). The industry had a turnover of £16.3bn in 2018, and enabled a further £596.7bn turnover in industries downstream of the supply chain.

10.4.11 The above considerations are important as they provide an indication of the wider/ indirect effects of quarrying, including how the expenditure generated from this activity is likely to be distributed across other parts of the local economy, and hence whether jobs could be retained or generated in these sectors.

10.4.12 Quarrying depends on its suppliers to provide critical goods and services to act as inputs to maintain the production process. The absolute level of expenditure can be very variable, reflecting the ad hoc nature of capital investment in what is one of the most capital intensive industries. However, the proposed extension will largely rely on existing site infrastructure for its operations. This equipment will require maintenance and/ or replacement over the course of the additional life of the quarry.

10.4.13 Some of the major suppliers provide a blend of equipment and services, from a range of local and non-local premises. These considerations, taken in combination with the year-on-year variations reported above, mean that accurate cost data is difficult to

predict and should not be over-interpreted, particularly as regards the level of stimulus that is being provided to the very local economy. This is partly due to the fact that the economic effects arising from the site also affect remote locations such as the company/ suppliers regional and head offices where a number of employees might be based to provide the support services. Identifying the exact economic benefit is therefore somewhat difficult. However, what is clear is that without the site there will be a significant deficit in the local economy based on annual costs incurred at present.

10.4.14 Having regard to the employment of 11 direct employees along with the significant contribution to the local economy, I consider that this constitutes VSC.

10.5 Restoration and Biodiversity Benefits

10.5.1 The proposed restoration scheme from phased restoration through to final restoration will bring significant biodiversity benefits, through increasing and enhancing local ecological networks and ecological functionality.

10.5.2 The aim of the progressive restoration scheme is the creation of a High Quality Agricultural Parkland, reflecting that of the lost/demolished Lea Castle parkland grounds.

10.5.3 The restoration proposals have been developed in consultation with the development team, the landowner and parties interested in wildlife, amenity, wellbeing and farming. This ensures that the scheme works within its physical, social and environmental parameters to best achieve a holistic green infrastructure approach. The scheme will create a landscape which can be sustainably managed for the benefit of both the landowner and the local community.

10.5.4 The progressive nature of the phasing scheme ensures that disturbed land is kept to a minimum and each phase of extraction is only temporarily disturbed before work commences to restore the land to the proposed uses within the final restoration scheme.

10.5.5 The restoration scheme will deliver approximately 9,750 trees to be planted to create woodland blocks (approximately 3.42 hectares in area); approximately 50 parkland trees to be planted in agricultural grassland / cropping and approximately 120 trees to be planted along the parkland avenue to reflect the former parkland setting; approximately 7.5 hectares of acid grassland creation; and approximately 1,018 metres

of linear hedgerow planting and strengths (approximately 439 metres of existing strengthened hedgerows and approximately 579 metres proposed new hedgerows).

10.5.6 It has been agreed with the Council at paragraph 7.19 of the SoCG *“that the submitted Restoration Plan and scheme outlined within the Environmental Statement (CD1.03) provide a Biodiversity Net Gain of approximately 87.21% (CD5.28). The County Ecologist welcomed the net gain”*.

10.5.7 As discussed in section 9 of this Proof, as part of this Appeal, an updated quantitative assessment of biodiversity impacts was undertaken using Biodiversity Metric 3.1 Calculation (See Appendix 4). Metric 3.1 is significantly more conservative in the scale of its measurable gains than Metric 2.0 (used to calculate the 87.21% figure), and as such can be viewed as more robust as its more representative of a ‘worst case scenario’ as regards the scheme’s biodiversity impacts.

10.5.8 The Biodiversity Metric 3.1 demonstrates the proposed scheme will deliver a likely substantial net gain for biodiversity of +39.31% BU for habitats, and +107.51% HU for hedgerows.

10.5.9 Although lower than the Metric 2.0 figure, the 39.31% net gain is nearly 4 times that required by legislation contained in the forthcoming Environmental Bill.

10.5.10 It can be concluded that the benefits resulting from this proposed development are substantial and wide reaching. From an ecological / biodiversity perspective it is clear that this development, provides betterment.

10.5.11 It is considered that the appeal proposal when factoring in final restoration, would conserve and enhance the landscape.

10.5.12 I consider the restoration and biodiversity benefits of the scheme contribute to VSC and a major benefit of the appeal proposal.

10.6 Conclusion

10.6.1 Based on the above, even if the Appeal Scheme is found to be inappropriate development in the Green Belt, there are significant factors that weigh in favour of the scheme which I consider taken as a whole constitute VSC (i.e. the potential harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (NPPF para.148)).

11 Planning Balance and Conclusions

11.1.1 In this Section I set out my consideration of the planning balance and in so doing, I pose the following questions:

1. Do the proposals constitute appropriate development in the Green Belt?
2. Do the proposals conflict with the purposes of Green Belt?
3. Is there any detrimental effect on residential amenity and local schools?
4. Is there a need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County?
5. If considered inappropriate development in the Green Belt, does the Appeal Proposal demonstrate VSC?

11.1.2 In terms of the Green Belt, there would be impacts, however, the proposed development would, notwithstanding its duration, be a temporary activity and whilst the proposal would disturb the site for a period of time, it would be progressively returned to an open state following completion of extraction and would be no more built up on completion of the development as a result of the proposal as it is now.

11.1.3 In view of the above, I consider that the Proposed Development does not constitute inappropriate development in the Green Belt when regard is had to all matters, including the level of impact during the operational phase, the duration of that phase, and the fact that following restoration there would be no impact on openness and no conflict with the purposes of including land within the designation.

11.1.4 Furthermore, the Appeal Scheme does not significantly affect the purposes of the Green Belt. The effects are temporary, and so would be reversible on completion of restoration. The restoration scheme allows for a combination of creating habitats focussed on delivering biodiversity along with the provision of areas for amenity use and public access, including a network of formal and informal paths. These are consistent with Green Belt aims, and in particular paragraph 145.

11.1.5 In terms of potential harms to residential amenity and local schools, as set out in section 7 of this Proof, based on the findings of the ES, coupled with the evidence of Mr Neil Furber, Ms Katrina Hawkins and Ms Rachel Canham, there are no significant

effects on the amenity of local residents and local schools as a result of visual impacts and dust or noise emissions. Either cumulatively or in isolation, these are limited and are considered to be within acceptable limits, noting that some degree of impact from mineral development is inevitable (and indeed accepted in policy – see NPPF paragraph 211). I therefore give slight weight to the potential harms.

11.1.6 It has been agreed with the Council that the Appeal Scheme would not give rise to any significant effects to ecology, archaeology and cultural heritage, soils and agricultural land and the water environment. This is corroborated by the findings of the ES.

11.1.7 Similarly, based on the findings of the ES, coupled with the evidence of Mr Jeremy Hurlstone, there are no significant effects arising through the movement of HGVs associated with the development.

11.1.8 Overall therefore, whilst the proposals would result in some harm, I consider the harm to be minor and so acceptable and within “appropriate limits”. Accordingly, policies in the Development Plan aimed at protecting the environment are complied with.

11.1.9 With this in mind, the Appeal Scheme benefits from the presumption in favour of sustainable development, whereby paragraph 11 of the NPPF indicates that development proposals that accord with an up-to-date development plan should be approved without delay.

11.1.10 Finally, there are other factors weighing in favour of the Appeal Scheme; these are the same eight points I have identified above in my consideration of VSC.

11.1.11 Turning to the positive side of the balance, there is “great weight” to be attached to mineral developments. I also attach substantial weight to the need to release new reserves as the landbank is below the minimum of 7 years for sand and gravel, which demonstrates that there is a shortfall in supply. I consider that there is a clear mineral need for the development which carries significant weight in favour of the scheme and is considered a VSC.

11.1.12 Therefore, in terms of need I consider there is:

- An established need;
- Which is not being met to the full extent required by the landbank;
- Which need would be still further under-supplied if the appeal was dismissed;

- Which can be substantially met if the appeal is allowed; and
- And which it has been shown, can be met well within environmental limits.

11.1.13 In terms of the need for inert waste disposal, the importation of inert materials as part of the restoration of the site will create a high-quality estate parkland setting which provides opportunities for living, leisure, recreation and enjoyment for local communities. Furthermore, there is an anticipated increase in inert waste likely to be generated from large infrastructure projects in north Worcestershire and the West Midlands over the next 10 years including the Lea Castle Village development. It has been agreed with the Council that the potential transport to and use of this material in the restoration scheme, aligns with the ethos of achieving sustainable development.

11.1.14 Having regard to the employment of 11 direct employees along with the significant contribution to the local economy, I consider that this constitutes a moderate benefit.

11.1.15 The restored quarry offers considerably enhanced habitat diversity with generally noticeable and significant local biodiversity benefits. It should also be noted that minerals extraction is a temporary land-use and that restoration of the extension together with the existing quarry area provides an opportunity to create a more diverse landscape feature.

11.1.16 It can be concluded that the benefits resulting from this proposed development are substantial and wide reaching. From an ecological / biodiversity perspective it is clear that this extension, as with the previous working areas, provides betterment. There is an expectation to restore to high standards, but the scheme has sought to offer biodiversity benefits and enhanced access, the latter would be phased in line with the workings. I consider the restoration and biodiversity benefits of the scheme to be a major benefit of the appeal proposal.

11.1.17 I consider that each of these factors add significant weight in favour of the Appeal Scheme.

11.1.18 Accordingly, it is my conclusion that the planning balance weighs heavily in favour of the Appeal Scheme.

11.1.19 In summary therefore and based on the evidence that I have presented, I conclude the following:

1. In relation to Green Belt the Appeal Scheme would preserve the openness of the GB and would not conflict with the purposes of including land within it, can be therefore be considered to be appropriate development in line with paragraph 150 of the NPPF;
2. This is partly so because impacts to the Green Belt are temporary and reversible and so are not permanent, with a high quality restoration scheme coming forward during the development;
3. Great weight is to be given to mineral development;
4. There is an urgent need for the release of mineral reserves in Worcestershire which the Appeal Scheme would provide;
5. The site is in a sustainable location to serve mineral and waste needs;
6. Even if the Appeal Scheme were found to be inappropriate, other considerations exist which would clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, so as to constitute VSC.

11.1.20 On this basis, I respectfully invite the Inspector to allow the appeal.

Appendix 4 -- Updated Ecological Walkover Survey and Biodiversity Net Gain Assessment

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

Appeal by NRS Aggregates Ltd

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

Against the refusal of planning permission by Worcestershire County Council for
application 19/000053/CM

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

Appeal Ref. APP/E1855/W/22/3310099

Addendum to Ecological Impact Assessment

January 2023

Heaton s
Planning Environment Design

ECOLOGY ADDENDUM

1 Introduction

- 1.1.1 Prior to the drafting of this addendum, an updated Phase 1 Habitat Survey of the site was conducted on the 16th of January 2023. The findings of the updated habitat survey were used to determine if any material change to the site had occurred since the Preliminary Ecological Appraisal (PEA) completed during 2019 or the Habitat Condition Assessment, conducted as part of the Biodiversity Metric 2.0 submitted in 2020. Additionally, the updated habitat survey was used to inform if there was any likely change in the occurrence, population size or distribution of protected/priority species since 2019. If it was considered that there was potential for material change in protected/priority species onsite this could impact upon the determinations set out in the Ecological Impact Assessment (EclA).
- 1.1.2 This Addendum and its terminology are in accordance with the 'Guidelines for Ecological Impact Assessment in the UK and Ireland (CIEEM 2022)¹, and the Guidelines for Preliminary Ecological Appraisal (CIEEM 2017)².
- 1.1.3 This Addendum (and its associated figures and appendices) is not intended to be a standalone document and should be read in conjunction with the 2019 EclA and the 2019 Preliminary Ecological Appraisal.
- 1.1.4 Additional relevant information to the determination of the scheme's ecological impacts is provided in the Appendices to this Addendum.
- 1.1.5 An updated Phase 1 Habitat map is provided in Appendix A.
- 1.1.6 Updated site photographs are provided in Appendix B.
- 1.1.7 A revised Biodiversity Metric Calculation is provided in Appendix C.
- 1.1.8 The updated metric has been undertaken utilising the latest Biodiversity Metric (Defra Biodiversity Metric 3.1). The Defra Metric 3.1 was published in April 2022 and replaces previously published 3.0 and 2.0 Biodiversity Metrics. Natural England advise³ that *'Biodiversity Metric 3.1 has been extensively tested. Natural England will be recommending to the Secretary of state that Biodiversity Metric 3.1 forms the basis of*

¹ Chartered Institute of Ecologist and Environmental Managers, (2022), Guidelines for Ecological Impact Assessment, Version 1.2, Available at: [Guidelines for Ecological Impact Assessment \(EclA\) | CIEEM](#)

² Chartered Institute of Ecologist and Environmental Managers, (2017), Guidelines for Preliminary Ecological Appraisal (GPEA), Available at: [Guidelines for Preliminary Ecological Appraisal \(GPEA\) | CIEEM](#)

³ Natural England, (2021), The Biodiversity Metric 3.1 (JP039), Available at: [The Biodiversity Metric 3.1 - JP039 \(naturalengland.org.uk\)](#)

the statutory biodiversity metric used to underpin future mandatory biodiversity net gain as set out in the Environment Act 2021’.

- 1.1.9 This Addendum confirms the current baseline ecological conditions on site, and within its surrounding, remain broadly as described within the 2019 EclA.
- 1.1.10 This addendum concludes that the assessments ‘of the likely significant effects’ (detailed with the 2019 EclA) remain correct, and the ecological evidence underpinning these determinations should still be viewed as robust.
- 1.1.11 This Addendum demonstrates the schemes continued conformity with all relevant ecological policy and legislation.

2 Baseline Conditions

2.1 Habitats

- 2.1.1 An updated Phase 1 Habitat Survey was conducted on the 16th January 2023, by Director of Ecology Justine Walsh (BSc Hons) and Amy Tose (BSc Hons, qualifying member CIEEM). The updated habitats recorded are mapped and referenced within the PEA report (Heatons, 2023). The Phase 1 Habitat Survey followed the standard methodology (JNCC, 2016)⁴, and as described in the Guidelines for Preliminary Ecological Assessment (CIEEM, 2017)⁵. This comprised of a walk over survey of the site during which habitat types, habitat conditions and boundary features were identified and mapped.
- 2.1.2 The survey confirmed the current habitats on site to broadly remain the same as those identified within the 2019 EcIA and are considered to offer the same value to the same species groups as reported previously. None of the further survey data elevated or reduced previous assessment in respect of importance of ecological features with regards to species or habitats.
- 2.1.3 The survey was conducted during a period considered to be sub optimal (January). However, due to ease of identification of the majority of habitats present across the site and extensive previous ecological assessment conducted, the 'time of year' is not considered to be a limiting factor on the validity of any conclusions drawn.
- 2.1.4 The habitats present across the site are summarized below. Composition of main species present is also provided and are detailed in accordance with the JNCC's DAFOR scale⁶.
- Arable
 - Semi-improved grassland
 - Improved grassland
 - Tall ruderal
 - Defunct hedgerow
 - Hard standing

⁴ Joint Nature Conservation Committee (2016), Handbook for Phase 1 Habitat Survey, Available at: [Handbook for Phase 1 habitat survey \(jncc.gov.uk\)](https://jncc.gov.uk)

⁵ Chartered Institute of Ecologist and Environmental Managers, (2017), Guidelines for Preliminary Ecological Appraisal (GPEA), Available at: [Guidelines for Preliminary Ecological Appraisal \(GPEA\) | CIEEM](#)

- Bare ground
- Standing trees
- Woodland
- Bracken
- Bramble

2.1.5 Composition of main species present is also provided and are detailed in accordance with the JNCC's DAFOR scale⁷.

2.2 Arable

2.2.1 The site primarily comprised of arable fields. At the time of the survey, all crops had been harvested and the fields retained winter stubble.

2.2.2 The previous assessment of arable land as 'important at the site level only' remains appropriate.

2.3 Semi improved Neutral Grassland

2.3.1 Semi-improved neutral grassland formed the field boundaries along the edges of several arable fields on the western and northeastern area of the site. Cock's foot (*Dactylis glomerata*) and Yorkshire Fog (*Holcus lanatus*) were dominant throughout. Scattered patches of bramble (*Rubus fruticosus*) scrub were occasional along the boundaries of the grasslands.

2.3.2 The previous assessment of the semi-improved grassland as 'important at the site level only' remains appropriate.

2.4 Improved Grassland

2.4.1 Two areas of improved grasslands fields were present on the eastern part of the site. The fields were separated by a farmers track (bare ground). This grassland had limited vegetative species diversity being dominated by Perennial rye grass (*Lolium perenne*). The area was intensively grazed by horses resulting in a uniformly short sward height (approx. 10mm) throughout. The grassland showed evidence of nutrient enrichment.

2.4.2 The previous assessment of the improved grassland as 'important at the site level only' remains appropriate.

⁷ Joint Nature Conservation Committee (2008), UK Terrestrial Biodiversity Surveillance strategy, Vegetation sampling, Available at: [Vegetation Sampling Workshop \(jncc.gov.uk\)](http://www.jncc.gov.uk/vegetation-sampling-workshop)

2.5 Tall ruderal

- 2.5.1 Three areas of tall ruderal vegetation were present within the site.
- 2.5.2 One area ran parallel with a section of the sites northeastern boundary and is dominated by Common sorrel (*Rumex acetosa*) with bramble also frequent. Hogweed (*Heracleum sphondylium*) and Cock's-foot were also present but occasional with creeping thistle also present but rare.
- 2.5.3 A second area of tall ruderal occurred between the two improved grassland fields, with it also extending along the eastmost boundary of the southern field. The habitat was similar in its vegetative species assemblage the north tall ruderal area (described above). Nether area contained invasive species⁸.
- 2.5.4 A third area surrounded a section of hard standing and improved grassland in the south of the site. This area was dominated by dense bramble growth with Buddleia (*Buddleja davidii*) and willow scrub (*Salix*) also being present but rare.
- 2.5.5 The previous assessment of tall ruderal being 'important at the site level only' remains appropriate.

2.6 Defunct hedgerow

- 2.6.1 A defunct species poor hedgerow was located in the eastern half of the site running west to east between two arable fields. This hedgerow was between 2m to 3m in height with a width of between 1.5m to 2m. The hedgerow was unmanaged with frequent and large gapes along its length. Its woody vegetation was dominated by hawthorn (*Crataegus monogyna*) with elm (*Ulmus procera*) present but rare.
- 2.6.2 A second defunct hedgerow occurred along the sites northeastern boundary, running west to east. Its vegetative composition was similar to the other defunct hedgerow (in the east of the site, detailed above). However, elder (*Sambucus nigra*) also comprised part of its woody vegetation, but only occurring occasionally.
- 2.6.3 The previous assessment of hedgerows as 'important at the site level only' remains appropriate.

2.7 Standard trees

- 2.7.1 There were a number of mature and semi-mature scattered trees recorded across the site including oak (*Quercus robur*), Beech (*Fagus sylvatica*), Sweet chestnut (*Castanea sativa*), Lime (*Tilia sp.*), Redwood (*Sequoia sp.*) and Conifers.

⁸ As listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended)

- 2.7.2 Several mature trees displayed ecologically desirable characteristics, including broken / split limbs, woodpecker holes, hollow interiors, standing deadwood etc. This allows for the trees to support a greater range of protected and priority fauna species (i.e., bats, birds, invertebrates).
- 2.7.3 Due to their features these trees are to be considered to be in 'good' condition to support biodiversity.
- 2.7.4 The semi-mature trees lacked the desirable ecological features of the mature trees. However, they are still considered to potentially support a range of species. As such, these trees are considered to be in 'moderate' condition.
- 2.7.5 The previous assessment of the semi-mature trees being 'important at the site level only' remains appropriate.
- 2.7.6 The mature trees are considered to be 'important at a local (borough) level'.

2.8 Hard standing and bare ground

- 2.8.1 There is a hard standing track present towards the centre of the site that separates the eastern and western sides.
- 2.8.2 An area of hard standing also occurs in the south of the site and is frequently in use by the farmer for storing materials, machinery, and stock piling soil.
- 2.8.3 The hard standing and bare ground were assessed as being of negligible importance.

2.9 Woodland

- 2.9.1 Two areas of woodland were present within the site boundary.
- 2.9.2 An area of broadleaved woodland occurred adjacent to the sites northwestern boundary and an of plantation woodland was present along the southwestern boundary.
- 2.9.3 For both woodlands the habitat descriptions and species compositions remain consistent with those detailed within the 2019 PEA.
- 2.9.4 Additionally, the habitat condition assessment for both woodlands remain consistent with those detailed within the 2020 biodiversity metric 2.0.
- 2.9.5 In line with previous determinations, within the 2019 EclA, both areas of woodland are considered to be of Local importance (borough level).
- 2.9.6 The intention remains that both areas of woodland are retained and enhanced as part of the scheme.

2.10 Bracken

- 2.10.1 An area of bracken is present in part along the southern boundary of the site, adjacent to a brick wall. The area is dense in nature and is approximately 2m to 3m in width.
- 2.10.2 The area of bracken is considered of negligible importance.

3 Biodiversity Impacts

3.1 Likely Significant Effects (Fauna)

- 3.1.1 With the context of the 2019 EclA, an effect is considered to be potentially significant upon a species if it could result in a change to its conservation status or the degree of integrity of any important ecological feature.
- 3.1.2 There is not considered to be any material change in the habitats currently on site or to the habitats proposed to be created/restored as part of the restoration scheme. As the habitats and ecological features on site have not materially altered, it is considered unlikely that the presence and abundance of protected and priority species has changed (either in their type or distribution) from that determined during previously undertaken surveys (2019 and 2020).
- 3.1.3 The conclusions of the 2019 Ecological Impact Assessment are deemed to still be valid.

3.2 Biodiversity Net Gain & Ecological Enhancement

- 3.2.1 An updated quantitative assessment of biodiversity impacts was undertaken using Biodiversity Metric 3.1 Calculation (Appendix C). Metric 3.1 determined the sites 'Baseline Score' as being 115.93 Biodiversity Units (BU) for habitats, and 74.84 Hedgerow Units (HU) for hedgerows. These values were calculated based upon the updated phase 1 mapping and habitat condition assessment completed in January 2023.
- 3.2.2 Once the existing habitat baseline is determined, the metric quantifies the likely biodiversity net gain/loss for the proposed scheme's delivery based upon its indicative layout and the restoration and ecological mitigation measures proposed. Metric 3.1 allows for the habitats on site (both current and future planned) to be described in terms of distinctiveness, condition and strategic significance.
- 3.2.3 Delay factors relating to the commencement of future habitat creation/restoration/enhancement can also be imputed as variables within the metric as these can also have a material effect on predicted future net-biodiversity values on site. This is particularly relevant for this scheme, as the phasing plans allow for significant temporal variation in the likely commencement date of different areas of proposed habitat creation/restoration/enhancement.
- 3.2.4 The previous Biodiversity Metric 2.0 did not allow for the accounting for any delay factors, and was less precautionary in the timescale that it deemed habitat creation

and enhancement could be delivered. As such Metric 3.1 is significantly more conservative in the scale of its measurable gains, and as such can be viewed as more robust as it is more representative of a 'worst case scenario' as regards the scheme's biodiversity impacts.

3.2.5 The outputs of the updated Biodiversity Metric 3.1. are summaries below:

HABITATS:

- Existing Baseline = 115.93 Biodiversity Units
- On-site Post-Intervention= 161.51 Biodiversity Units
- Total Net Unit Change (B-A) = +45.58 Gain of Biodiversity Units

HEDGEROWS:

- Existing Baseline= 2.74 Hedgerow units
- On-site Post-Intervention= 5.68 Hedgerow Units
- Total Net Unit Change (B-A) = +2.94 Gain of Hedgerow Units

3.2.6 The Biodiversity Metric 3.1 demonstrates the proposed scheme will deliver a likely substantial net gain for biodiversity of **+39.31% BU** for habitats, and **+107.51% HU** for hedgerows.

3.2.7 This significant 'likely' net gain is due to areas of low distinctiveness arable land, improved grassland, scrub and tall ruderal vegetation being replaced by high distinctiveness acid grassland, woodland, parkland, waterbodies and the plating of scattered trees.

3.2.8 Existing ecological functionality will be maintained at the site via the retention of the hedgerow and woodland networks and further enhanced through new hedgerow planting and the creation of additional woodland areas and scattered trees.

3.2.9 These measures will ensure that there is wider landscape habitat connectivity and that suitable habitat resources are available for protected species (bats, birds, small mammals, invertebrates, herpetofauna, etc.).

3.2.10 The phased nature of the development will limit the total duration of works/disturbance within each section of the site allowing for the restoration habitats (in one location or another) to occur continuously after the completion of the first phase. Meaning that the combined adverse impacts upon mobile site fauna is likely to be reduced as areas of refuge are always available.

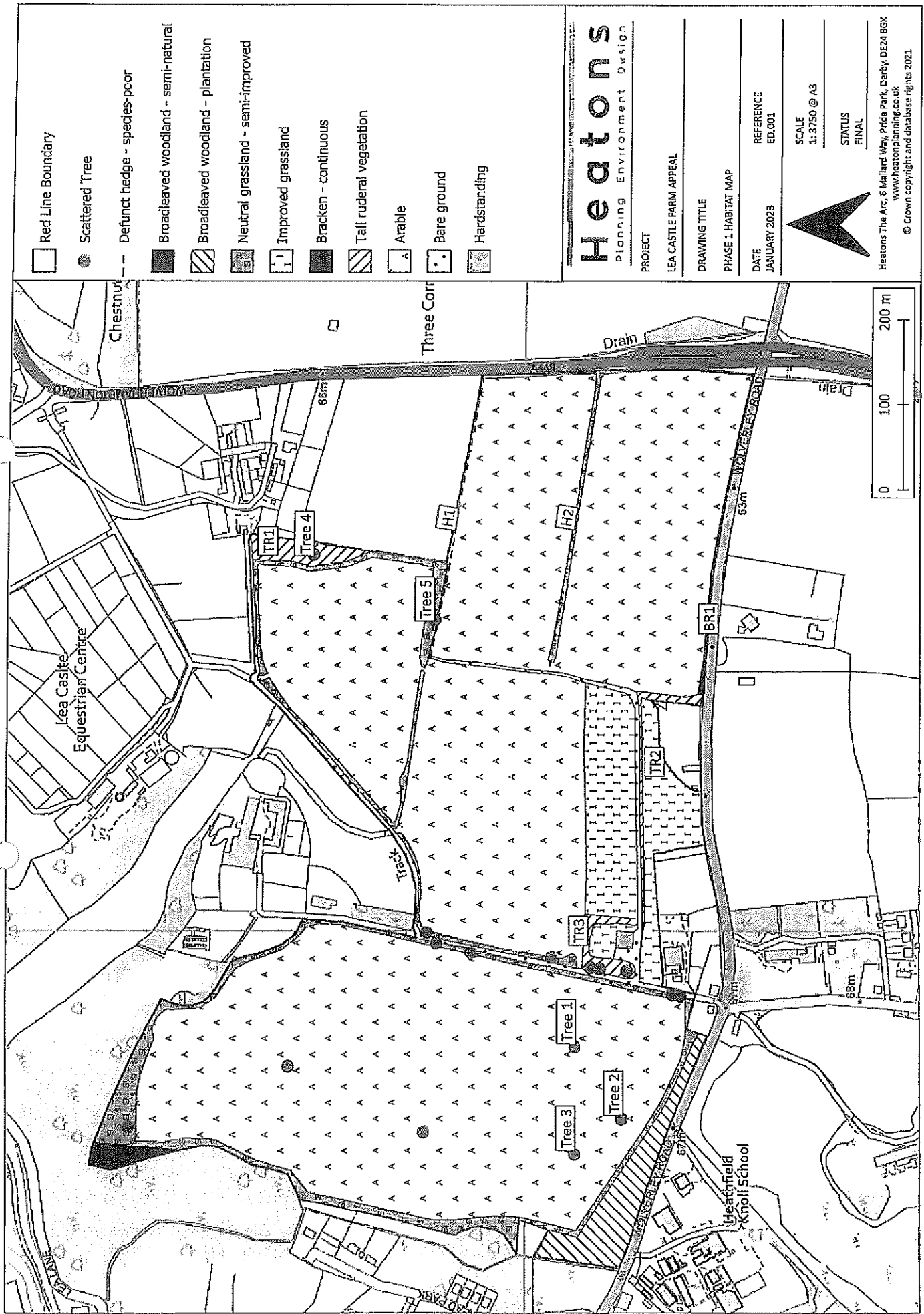
3.2.11 The conclusions of the 2019 EclA are deemed to still be valid in that the scheme should deliver a significant long-term gain in site biodiversity value.

4 Conclusion

- 4.1.1 This addendum demonstrates (via presentation of updated habitat type and condition assessment), that the conclusions detailed within the previous the 2019 Ecological Impact Assessment remain both accurate and robust.
- 4.1.2 The site remains materially unchanged in importance since previous assessments and is likely to support the same species assemblages and populations as previously determined.
- 4.1.3 The proposed mitigation and enhancement measures continue to be deemed appropriate for the likely scale of ecological impacts and the delivery of significant Biodiversity Net Gain has been re-tested and reaffirmed, despite the usage of a more precautionary metric.
- 4.1.4 The significant net gains in biodiversity units (shown to be possible as part of this development) exceed the current requirements set out in both national policy (i.e., NPPF 2021) as well as the future legal minimum of 10% net gain, as detailed in the assented (but not yet enforced) Environment Act 2021⁹.

⁹ Environment Act 2021, Available at: [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Appendix A – January 2023, Phase 1 Habitat Map, REF: ED.001



- Red Line Boundary
- Scattered Tree
- Defunct hedge - species-poor
- Broadleaved woodland - semi-natural
- Broadleaved woodland - plantation
- Neutral grassland - semi-improved
- Improved grassland
- Bracken - continuous
- Tall ruderal vegetation
- Arable
- Bare ground
- Hardstanding

Heaton's

Planning Environment Design

PROJECT
LEA CASTLE FARM APPEAL

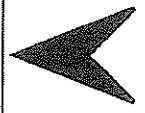
DRAWING TITLE
PHASE 1 HABITAT MAP

DATE
JANUARY 2023

REFERENCE
ED.001

SCALE
1: 3750 @ A3

STATUS
FINAL



Heaton's The Arc, 6 Mallard Way, Pride Park, Derby, DE24 8GX
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Appendix B – Site Photographs



Broad-leaved plantation woodland located in the south-west corner of the site.



Broad-leaved semi-natural woodland located in the north-west corner of the site.



TR1 located in the north-east corner of the site.



Improved grassland area, intensively grazed by horses.



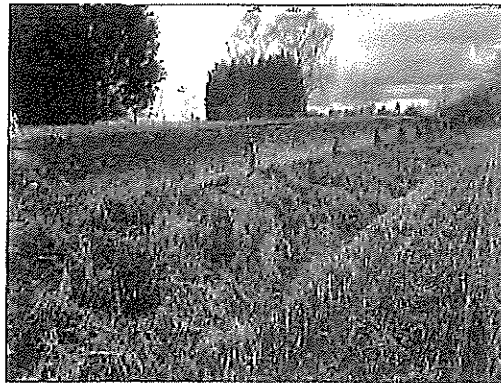
Area of hard standing, bare ground track and TR3.



Defunct species-poor hedgerow.



Arable cultivated land, that covers the majority of the site.



Area of bracken found in part along the southern boundary.

Appendix C – Biodiversity Net Gain Assessment

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

County Council Reference: 19/000053/CM

WORCESTERSHIRE COUNTY COUNCIL

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

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1.0 Introduction

- 1.1 My proof of evidence focuses on Planning and Green Belt issues. Whilst the additional minerals reserves would contribute to the sand and gravel landbank of Worcestershire County Council ("WCC"); I am concerned about the effects of the proposal on the Green Belt and on the amenity of adjacent receptors.
- 1.2 My evidence concludes that the appeal proposal reduces openness and is in conflict with Green Belt purposes. I conclude that the proposal is inappropriate development and is not supported by very special circumstances. In terms of paragraphs 147 and 150 of the National Planning Policy Framework ("NPPF") I conclude that the case "tips the balance".
- 1.3 As a consequence of seeking to mitigate for landscape, noise and dust impacts, I consider that the proposal would offer significant harm to the amenity of residential dwellings for periods of time during the operational works. I also consider that due to insufficient evidence to determine otherwise, it has not been demonstrated that the proposal would not offer a cumulative amenity impact on both residential receptors and Heathfield Knoll School & First Steps Nursery ("The School") in combination with other development. The proposal fails to accord with MLP 28 of the Minerals Local Plan, policy WCS 14 of the Waste Core Strategy and policies SP.16 and SP.33 of the Wyre Forest District Local Plan and the Framework.

2.0 Minerals Supply

- 2.1 The latest Local Aggregate Assessment was published by WCC in January 2023. It is concluded that when taking into account planning permissions granted at the sites Bow Farm, Ryall North and Sandy Lane, the WCC estimated landbank for sand and gravel reserves is 5.74 years as of December 2022. This is a substantial improvement of the landbank in comparison to the 4.14 years estimation of December 2021 but still short of the 7 years as required by policy MLP 14.
- 2.2 The approval of the appeal scheme would increase the landbank by 3.63 years and as such exceed the requirements of MLP 14. However, it is also noted that the grant of permission for sites to be determined by the WCC this year would also increase the landbank to in excess of 7 years.

3.0 Green Belt Issues

- 3.1 To be appropriate development in the Green Belt, it is not a prerequisite that openness is maintained. Mineral extraction may not be inappropriate as long as it preserves openness in accordance with paragraph 150 of the NPPF. It therefore comes down to the specific details of the proposals; determining the "tipping point" beyond minerals excavation that would preserve openness and not conflict with the purposes of including land within the Green Belt, depends on the particular circumstances of the proposal as a matter of fact and degree.
- 3.2 The site consists of open and undeveloped Green Belt land. It is located approximately 330m north of the settlement boundary for the town of Kidderminster, approximately 680 metres and 850 metres east of the villages of Wolverley and Fairfield, respectively, and approximately 350m south of the village of Cookley.
- 3.3 The appeal site directly contributes to the prevention of both the incremental encroachment of development into the open countryside and to the sprawl of Kidderminster along the A449; as such having heightened purposes in relation to two of the five purposes of Green Belt land.
- 3.4 The inclusion of a substantial number of bunds to mitigate for the effects of the proposal on the landscape and visual impact of the area is concluded, as a by-product, to create a change to the sense of openness on receptors (for both residential and recreational uses and/or road users) due to their extent and size; cutting off open views across the site.
- 3.5 The development is considered to offer a very significant detrimental effect on visual openness from western and southern viewpoints of the site during Phases 1, 2 and 3 of the works, from north-western viewpoints of the site during Phases 4 and 5 of the works, and a significant detrimental effect during the lifespan of development until the plant area is decommissioned.
- 3.6 The development is considered to offer a very significant detrimental effect on visual openness, in combination with the allocated development at Lea Castle Village, across Phases 4 and 5 of the development, from wider views of the Green Belt from the east and southeast of the site.
- 3.7 Furthermore, the siting of the bunds themselves provide engineered features at odds with the natural landscape of the site for substantial periods of time; providing a spatial impact on the openness of the Green Belt by way of their siting.

3.8 In this instance, it is considered that the substantial use of large bunds across the site for a period of 10 years would, in combination with development adjacent to the site, offer an intensive impact on the Green Belt at a period in time when the site is considered to have a heightened responsibility in effectively performing its purposes as Green Belt land.

3.9 Taken in context the overall effect of the development is of significant harm to the Green Belt by loss of openness.

4.0 Amenity Issues

4.1 The technical reporting identifies that, in isolation, the proposed works would have an impact on a number of residential dwellings, most notably at Castle Barns and the Bungalow, with regard to noise and dust, sufficient to require mitigation measures. These measures include the erection of sizeable screening bunds.

4.2 It is not contested that the bunds provide sufficiently robust mitigation to alleviate noise and dust impacts to inside acceptable thresholds. However, in relation to Castle Barns and the Bungalow, the bunds themselves are considered to offer measurable harm to outlook and overbearing impacts of significance to the properties across the lifespan of the erection of the bunds. It is concluded therefore that the proposed development, in isolation, provides a significant impact on amenity on residential receptors for periods of time during operational works on site.

4.3 Insufficient information has been provided in relation to cumulative impacts to determine whether this amenity impact to residential receptors is exacerbated by the intended developing out of the Lea Castle Village site across the same operational period.

4.4 Furthermore, insufficient information has been provided in relation to cumulative impacts to determine whether the intended developing out of the Lea Castle Village site across the same operational period offers any further cumulative impact on The School, sufficient so as to create a harmful impact on amenity.

5.0 Absence of Very Special Circumstances (VSC)

5.1 From their Statement of Case it is the Appellant's opinion that VSC exist from:

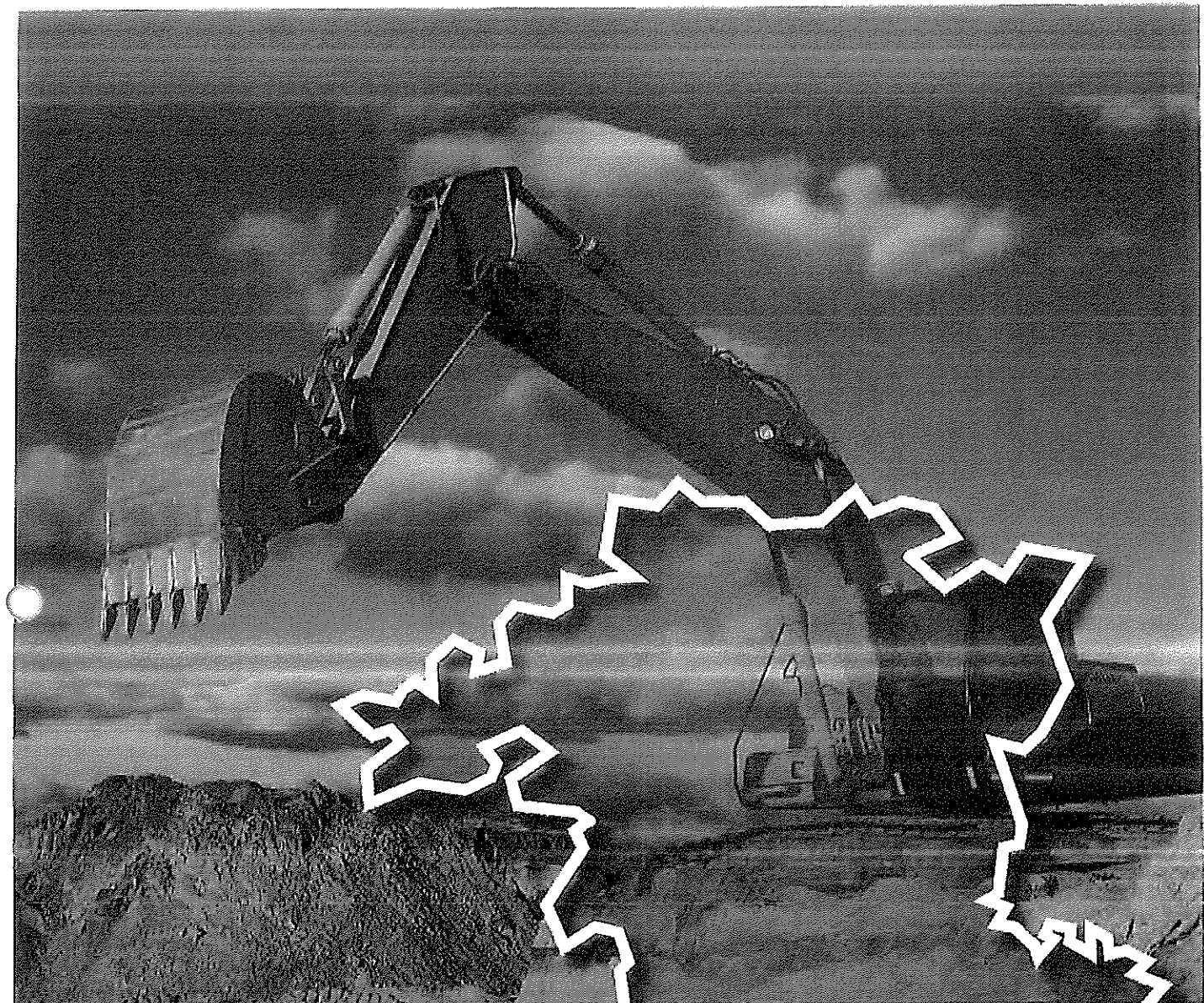
- The need for the release of new mineral reserves to ensure a “steady and adequate supply of aggregates” and that great weight that is attached to mineral extraction;
 - The contribution of the scheme to the WCC landbank, which is currently not in compliance with NPPF paragraph 213;
 - The sustainability of the location with regard to the logistical marketplace, the spread of supply throughout the County and the potential inert waste that could be transported to site from surrounding residential development sites;
 - The economic benefit of providing jobs, providing direct and indirect economic contributions to the local economy and to the economy through levy and taxation; and
 - Restoration benefits from the site, including a significant increase in net biodiversity gain.
- 5.2 Minerals excavation should be given great weight; and the proposal would contribute to the WCC Sand and Gravel Landbank position, which currently sits below 7 years. Due to the improving landbank and there being a reasonable expectation that the shortfall of it will be addressed, the benefit applied to the consideration is concluding to be substantial, not very substantial.
- 5.3 Whilst the geographical spread of resources is a benefit, there is not an acute issue for location of supply as a proportion of the landbank available. As such, moderate weight is applied to the consideration. There is neither a confirmed agreement in place with an inert waste supplier from surrounding residential development sites that informs this appeal, nor is there confirmation that any development in the surrounding area has a need to export inert waste from their sites. As such, negligible weight is afforded to the matter.
- 5.4 Employment provision and other operational aspects of the development would make a moderate but nonetheless significant contribution to the economy. The scheme would have some substantial benefits for biodiversity in the long term, subject to a number of high risk aspects of the restoration scheme being successful delivered across the long term; the risks of which limit the benefits to moderate in planning balance. The restoration of the site following completion of the minerals excavation is a requirement of policy rather than a direct benefit secured by the proposal. As such, negligible weight is applied to the delivery of a restored site.
- 5.5 I have concluded that the proposal is inappropriate development. Furthermore, the proposal would not assist in checking sprawl or safeguarding the countryside from encroachment, and so would conflict with two of the purposes in the Green Belt and be contrary to policies MLP 16 of the

Worcestershire Minerals Local Plan and DM.22 of the Wyre Forest Local Plan. This harm to the Green Belt should, by definition, be given substantial weight.

- 5.6 I consider that the proposal is contrary to policies MLP 28 Worcestershire Minerals Local Plan and WCS 14 of the Waste Core Strategy, in offering substantial harm to receptor amenity.
- 5.7 I therefore conclude that 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.

6.0 Conclusion

- 6.1 I consider that the harm to the Green Belt along with the harm to amenity in the area is not clearly outweighed by the benefits of mineral extraction, along with the contribution the appeal scheme would make to employment provision, the economy and biodiversity. I consider that 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.
- 6.2 I therefore conclude that the Inspector should be invited to dismiss the appeal.



● Worcestershire

Minerals Local Plan 2018-2036

Find out more online:
www.worcestershire.gov.uk/minerals



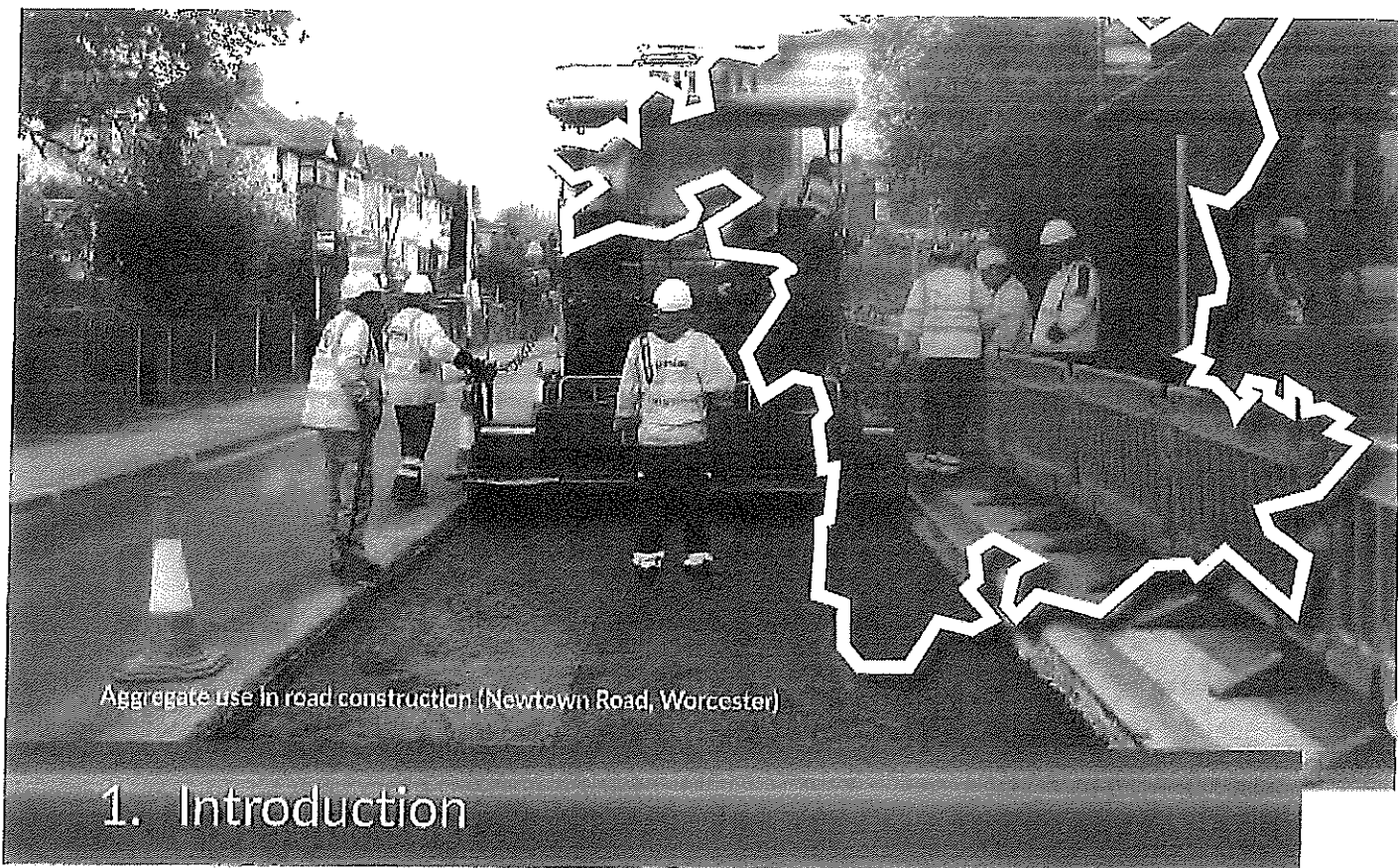
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Aggregate use in road construction (Newtown Road, Worcester)

1. Introduction

- 1.1 Minerals are an essential raw material in our daily lives, contributing £235bn annually to the national economy from mineral extraction, products manufacture and first use markets¹. Minerals enable us to build our houses, schools, hospitals, roads and railway lines. Different types of minerals are used for different things:
- **Aggregate minerals** (sand, gravel and crushed rock) are used without much treatment for building, such as roads and houses. A typical new house uses approximately 60 tonnes of aggregate from the foundations through to the roof tiles².
 - **Industrial minerals** are used to manufacture products. These include special types of sand for making glass, clay for making bricks and ores for metals.
 - **Building stones** are cut or shaped into blocks or slabs for use as walling, paving or roofing materials in the construction of buildings and other structures.
 - **Energy minerals** such as coal, oil and gas are used for fuel.
- 1.2 Mineral deposits occur naturally. They are finite and, due to variations in geology, are not evenly distributed. In Worcestershire, there are deposits of sand and gravel, some types of rock, brick clay, silica sand, building stones, coal, and salt.
- 1.3 Worcestershire County Council is a Mineral Planning Authority, meaning that it is responsible for making decisions on planning applications for mineral development in Worcestershire³. The Minerals Local Plan sets out the long-term planning strategy for mineral development in Worcestershire to 2036 and beyond⁴. It seeks to enable sustainable development by balancing the need for minerals against any potential harm, and seeks to maximise the potential for social, economic and environmental benefits to be realised.
- 1.4 The Minerals Local Plan is part of the statutory Development Plan for Worcestershire and applies to the whole of the county. The Development Plan is also made up of Development Plan Documents that have been prepared by the County Council and

1 Annual total GVA of mineral extraction, products manufacture and first use markets. Source: UK Minerals Strategy (July 2018). The UK Minerals Strategy was prepared by the UK minerals and mineral products industry, facilitated by members of the CBI Minerals Group and the Mineral Products Association.

2 British Geological Survey (2008) *The need for indigenous aggregates production in England*, <https://www.bgs.ac.uk/downloads/start.cfm?id=1373>. This does not include any requirements for infrastructure supporting housing development or the significant amount used in maintaining or refurbishing existing housing stock. Estimates of the amount of mineral resource required per house when supporting infrastructure, such as access roads, is taken into account (averaged per house on the development) ranges between 200 tonnes (Mineral Products Association (2016) *The Minerals Products Industry at a Glance*, http://www.mineralproducts.org/documents/Mineral_Products_Industry_At_A_Glance_2016.pdf) and 400 tonnes (British Geological Survey (2008) *The need for indigenous aggregates production in England*, <https://www.bgs.ac.uk/downloads/start.cfm?id=1373>).

3 *Town and Country Planning Act 1990*.

4 This will cover a 15 year period from anticipated adoption, in line with national policy.

A vision for the winning, working and lasting legacy of minerals development in Worcestershire to 2036 and beyond

The winning, working and lasting legacy of minerals development in Worcestershire will be part of a holistic approach to delivering sustainable economic growth, supporting health and quality of life, and enhancing the built, historic, natural and water environment, that together contribute to the diverse character of the county and surrounding area. Mineral development, including transportation and processing, will be water and energy efficient, will optimise on-site energy provision from renewable and low-carbon sources, and will mitigate and adapt to the impacts of climate change.

Worcestershire's permitted mineral sites and supporting infrastructure will provide a steady, adequate and sustainable supply of locally and nationally important minerals. They will contribute to the vitality of the local economy through the delivery of minerals to local and national markets, whilst making the best use of substitute, secondary and recycled minerals and mineral wastes to minimise the need for primary materials. Worcestershire's locally and nationally important mineral resources, permitted mineral sites and supporting infrastructure will remain available for future use, having been safeguarded against sterilisation by non-minerals development.

Mineral supply will be delivered from working and processing at multiple sites over the life of the plan, focused in five strategic corridors: Avon and Carrant Brook Strategic Corridor, Lower Severn Strategic Corridor, North East Worcestershire Strategic Corridor, North West Worcestershire Strategic Corridor, and Salwarpe Tributaries Strategic Corridor. The coordinated design, working and restoration of mineral sites will strengthen the distinctive character of each strategic corridor, as well as respecting the site-specific context and addressing issues identified through effective community engagement. These mineral sites will be designed to deliver and enhance multifunctional green infrastructure and become integrated into Worcestershire's green infrastructure network. The planned contribution each site will make towards delivering a positive lasting legacy will be a prerequisite to development, ensuring all sites have a clear vision for delivering benefits throughout winning and working phases, and through delivering high-quality restoration at the earliest opportunity to enable an appropriate after-use.

Mineral sites will make efficient use of mineral resources, balancing the need to maximise the quantities of resource extracted with the need to achieve final landforms and restoration that deliver multifunctional benefits and is appropriate in the landscape.

Objectives of the Worcestershire Minerals Local Plan

- 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



Riverside Meadows landscape type
(Ham Bridge, Worcestershire)

4. Spatial strategy (strategic policies)

Policy MLP 1: Spatial Strategy

Contributing to:

Objectives MO1, MO2, MO3, MO4, MO5, MO6

- a) For most types of mineral, the majority of development over the life of the plan will be located in the Avon and Carrant Brook, Lower Severn, North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors:
 - i. Development for sand and gravel, silica sand and brick clay will be supported within the strategic corridors and will not normally be supported elsewhere in the county.
 - ii. Development for building stone will be supported within the strategic corridors, but may also be supported elsewhere within the county.
 - iii. Development for salt/brine or other industrial minerals will be supported within the strategic corridors, but may also be supported elsewhere within the county.
- b) Crushed rock development will be supported throughout the county.
- c) Proposals for on-shore oil and gas development will only be supported in any areas licensed by Government for oil and gas exploration or production in future licensing rounds.

Reasoned justification

4.1 To serve market demand for mineral resources in and around Worcestershire and to support the local and wider economy, five strategic corridors are identified in Figure 4.1 (Key Diagram).²³⁸ These are the Avon and Carrant Brook Strategic Corridor, the Lower Severn Strategic Corridor, the North East Worcestershire Strategic Corridor, the North West Strategic Corridor and the Salwarpe Tributaries Strategic Corridor.

Distribution of mineral resources

4.2 The identification of the strategic corridors has been informed by the distribution of the mineral resources which are found in Worcestershire.

4.3 The distribution of sand and gravel, silica sand and brick clay resources has been instrumental in defining the strategic corridors. The strategic corridors are the areas in the county where there are the greatest concentrations of sand and gravel, silica sand, and brick clay resources which are not affected by significant viability, environmental and amenity constraints²³⁹:

- Terrace and glacial sand and gravel resources in Worcestershire are found extensively across the five strategic corridors;
- Solid sand resources are found extensively within the North East Worcestershire and North West Worcestershire Strategic Corridors;
- Wildmoor Sandstone Formation deposits which contain silica sand resources are found extensively within the North East Worcestershire and North West Worcestershire Strategic Corridors; and
- Mercia Mudstone Group deposits which contain brick clay resources are found extensively within the Salwarpe Tributaries Strategic Corridor and the Lower Severn Strategic Corridor, and to a lesser extent within the Avon and Carrant Brook Strategic Corridor and the North East Worcestershire Strategic Corridor.

4.4 The distribution of crushed rock has not been instrumental in defining the strategic corridors due to the viability, environmental and amenity constraints on the resources in the county²⁴⁰. Crushed rock resources do not occur within the strategic corridors, and any crushed rock development will therefore necessarily be located outside the strategic corridors.

4.5 The distribution of building stone has not been instrumental in defining the strategic corridors, but the North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors do contain some building stone resources²⁴¹.

4.6 The presence and distribution of other industrial mineral deposits have not been instrumental in defining the strategic corridors due to a lack of geological information, or due to lack of market information to indicate that working of other minerals would be viable in Worcestershire. Although the Salwarpe Tributaries Strategic Corridor does contain Droitwich Halite Member (rock salt) resources, there is very little information regarding the location and extent of the associated brine resources due to the complex hydrology of the area.

4.7 The distribution of energy minerals was not instrumental in defining the strategic corridors as there are no commercially viable coal resources and no known oil or gas resources in Worcestershire.

Coordinated mineral development

4.8 The strategic corridors are well located to serve planned housing and infrastructure development²⁴² and are connected to the strategic transport network. Within each of the strategic corridors there are common characteristics and issues which will benefit from a coordinated approach to the working and restoration of multiple mineral sites. The characteristics of each corridor are set out later in this chapter, starting at paragraph 4.82.

238 See Appendix 2 for information about identifying and defining the strategic corridors.

239 See Chapter 2 (Portrait of Worcestershire) section on Worcestershire's mineral resources.

240 See Chapter 2 (Portrait of Worcestershire) section on Worcestershire's mineral resources.

241 Former building stone quarries identified through the Herefordshire and Worcestershire Earth Heritage Trust's project *A Thousand Years of Building with Stone*.

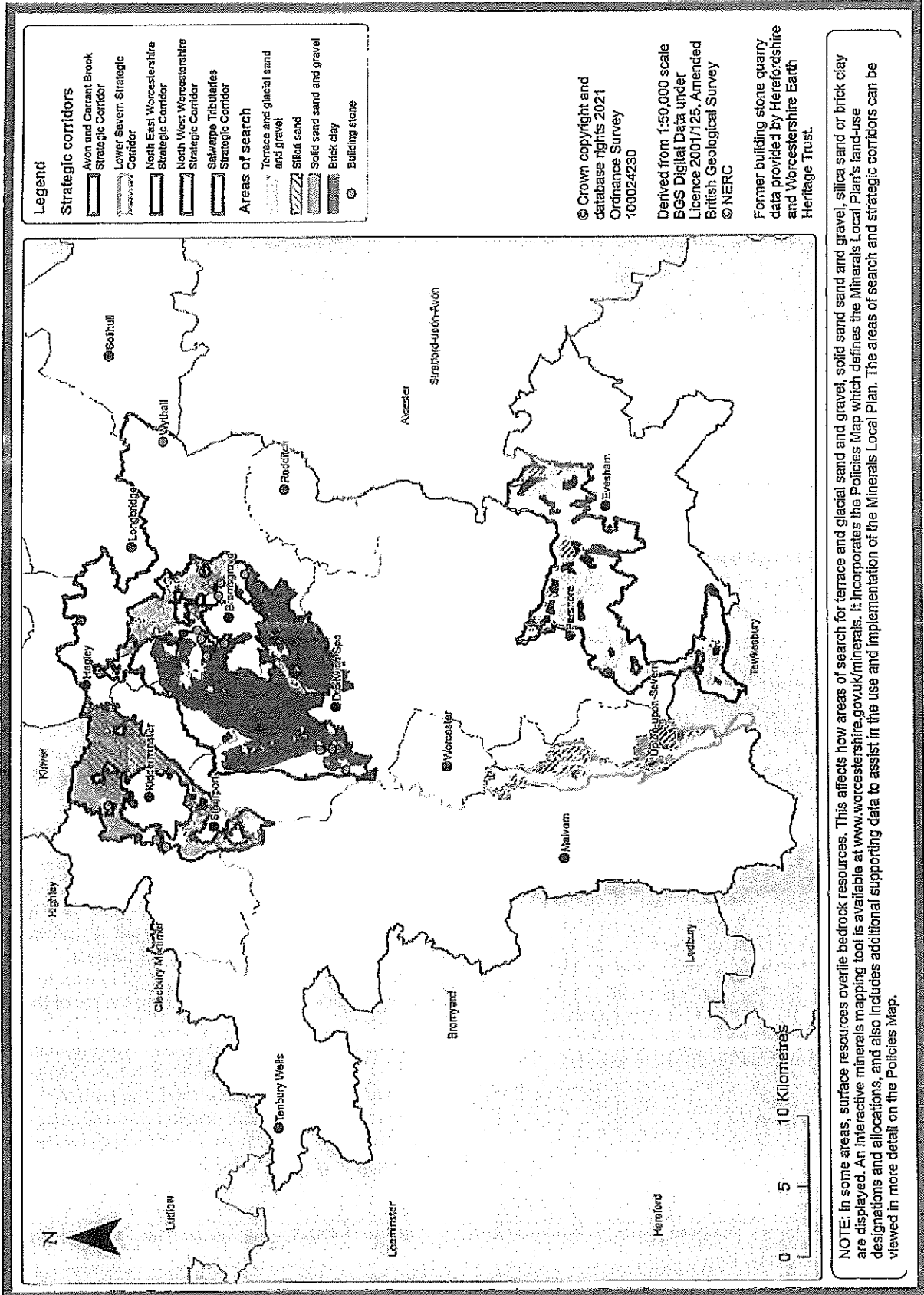
242 The Second Stage Consultation on the Minerals Local Plan mapped areas of market demand to identify where mineral resources in Worcestershire were: a) within 15km of settlements where 1,500 homes or more were proposed over the plan period; b) within 10km of settlements where 750 – 1,500 homes were proposed over the plan period; and c) within 5km of settlements where 250 – 750 homes were proposed over the plan period. The location of all of the strategic corridors (at that time known as areas of search) meant that they were well placed serve at least three or more of the identified market demand areas. Each of the corridors also has access to the strategic transport network to facilitate the transport and distribution of mineral products.

- 4.9 Throughout the Minerals Local Plan, mineral sites are viewed as part of the wider green infrastructure network, before, during and after they are worked for their minerals. Concentrating mineral development in the strategic corridors will enable a co-ordinated approach to the working and restoration of mineral sites, giving greater opportunities to deliver integrated social, economic and environmental gains than if sites are considered in isolation. The character and distinctiveness of each of the strategic corridors sets a framework for the cost-effective delivery of multifunctional green infrastructure priorities.
- 4.10 Through the holistic consideration of the components of green infrastructure at a strategic level, priorities have been identified for mineral development within each strategic corridor which reflect the characteristics of the individual corridor, and the opportunities for multifunctional green infrastructure which mineral development can deliver (policies MLP 8 to MLP 12). The priorities identified differ between each of the strategic corridors because of the types and properties of the mineral resources they contain, and the environmental and economic diversity in the county. As the identified priorities are multifunctional and are appropriate to the particular landscape character, ecology, geology and hydrology of each corridor, they should be cost-effective for developers to implement whilst maximising integrated social, economic and environmental gains.
- 4.11 Policies MLP 8 to MLP 12 take account of the likely characteristics of mineral working in each of the corridors; consider how green infrastructure components²⁴³ interact at a landscape-scale to contribute to the economic and social well-being and environmental quality of the corridor; and set out focused priorities that identify how mineral development can best enhance the green infrastructure networks in each corridor to deliver social, economic and environmental benefits. The identified priorities seek to deliver multifunctional benefits across green infrastructure components and take a long-term view. This will enable the coordination of benefits from multiple mineral developments in the same strategic corridor, even where they are not worked concurrently or by the same mineral operator.
- 4.12 The strategic corridor priorities complement
- other aspirations for development expressed in the Local Plans and Neighbourhood Plans in the county, the Worcestershire Strategic Economic Plan,²⁴⁴ and other relevant policies and strategies, as well as characteristic land management practices within the corridors.
- 4.13 To ensure the plan's vision is delivered and the strategic benefits of coordinated development within the strategic corridors are realised, the majority of mineral development over the life of the plan will take place within the strategic corridors. However, the spatial strategy recognises that in some circumstances, the supply of minerals from outside the strategic corridors will be necessary. Policy MLP 4 enables mineral development outside the strategic corridors where a particular mineral type does not occur within the strategic corridors, and where there is a need for a mineral with certain properties which are necessary for a particular use but which cannot be supplied in sufficient quantity from within the strategic corridors.
- 4.14 In addition, the location of some types of proposals for mineral development will be driven by other factors, such as where there is a need to amend an existing planning permission, where mineral extraction is necessary to prevent the sterilisation of resources by other non-mineral development, or where a mineral extraction from a borrow pit can directly serve a specific project nearby. These types of development may therefore occur either within or outside the strategic corridors (policy MLP 5 and policy MLP 6).
- 4.15 All proposals for mineral development both within and outside the strategic corridors will need to consider green infrastructure within the context of the particular site (policy MLP 7).

²⁴³ Biodiversity, the landscape, the historic environment, the water environment and publicly accessible green spaces and informal recreation sites.

²⁴⁴ Worcestershire Local Enterprise Partnership's (2014) *Worcestershire Strategic Economic Plan* prioritises the visitor economy, agri-tech, horticulture and food production.

Figure 4.1. Key diagram



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Strategic location of development

Specific Sites and Preferred Areas within the Strategic Corridors

Policy MLP 2: Strategic Location of Development – Specific Sites and Preferred Areas

Contributing to:

Objectives MO1, MO2, MO3, MO4, MO5, MO6

Specific sites and preferred areas will be allocated within the Avon and Carrant Brook, Lower Severn, North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors in a separate Mineral Site Allocations Development Plan Document and defined on the Policies Map.

- a) Planning permission will be granted for new mineral developments and extensions to extant sites within allocated specific sites.
- b) Planning permission will be granted for new mineral developments and extensions to extant sites within allocated preferred areas where one of the following applies:
 - i. There is a shortfall in allocated specific sites to meet the scale of provision required over the life of the plan; or
 - ii. There is a demonstrated shortfall in the landbank or stock of permitted reserves in the most recent Local Aggregate Assessment (for aggregate development proposals) or Authority Monitoring Report (for non-aggregate development proposals); or
 - iii. There is a demonstrated shortfall in productive capacity in the most recent Local Aggregate Assessment (for aggregate development proposals) or Authority Monitoring Report (for non-aggregate development proposals); or
 - iv. There is a demonstrated shortfall in supply of the relevant mineral for particular uses or specifications which would be addressed by the proposed development; or
 - v. There is a demonstrated shortfall for a particular geographic market area which would be addressed by the proposed development.

* The Policies Map defines the Minerals Local Plan's land-use designations and allocations and is available as part of an interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.

Reasoned justification

4.16 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.

4.17 A Mineral Site Allocations Development Plan Document (DPD) will be prepared to allocate specific sites and preferred areas²⁴⁵ 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.²⁴⁶

²⁴⁵ The Mineral Site Allocations Development Plan Document will be subjected to a series of assessments during its development, separately from those undertaken on the Minerals Local Plan. This will include assessment under the Habitat Regulations, Sustainability Appraisal incorporating the requirements of the Strategic Environmental Assessment Regulations, Strategic Flood Risk Assessment, and Equality Impact Assessment

²⁴⁶ Planning Practice Guidance defines "Specific Sites" as sites "where viable resources are known to exist, landowners are supportive of minerals development and the proposal is likely to be acceptable in planning terms. Such sites may also include essential operations associated with mineral extraction" and defines "Preferred Areas" as "areas of known resources where planning permission might reasonably be anticipated. Such areas may also include essential operations associated with mineral extraction". Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals*, paragraph: 008 Reference ID: 27-008-20140306 Revision date: 06 03 2014.

- 4.18 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.
- 4.19 Preferred areas are areas of known resources where planning permission might reasonably be anticipated, however they do not provide the same level of certainty as specific sites. They will be allocated after being considered against a set of site-selection criteria, but a level of uncertainty over either the viability of the mineral resources they contain, the level of landowner support, or whether particular constraints can be satisfactorily managed or mitigated will have prevented them from being allocated as specific sites.
- 4.20 The allocation of specific sites and preferred areas will establish that the location of mineral development is acceptable in principle. In determining whether a site should be allocated (whether for a new site or an extension to an existing site), weight will be given to the need for the specific mineral, economic considerations (such as making efficient use of resources, retaining local jobs, or the ability to utilise existing plant and other infrastructure), environmental impacts and benefits, and any cumulative impacts of proposals in the area. 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).

Shortfall in extant sites and specific sites

- 4.21 Where anticipated supply from extant sites and specific site allocations will not be sufficient to meet the scale of provision required for a particular mineral type over the life of the plan, mineral development on preferred areas will be necessary to enable the steady and adequate supply of resources and will be supported. The anticipated scale of provision required for each type of mineral over the life of the plan is set out in Chapter 5. However, the balance between supply and demand, and levels of permitted reserves, will vary over the life of the Minerals Local Plan.
- 4.22 Any anticipated shortfall in supply from extant sites and specific site allocations for a particular mineral type will be identified in the Mineral Site Allocations DPD and through monitoring in the Local Aggregate Assessment (LAA) and Authority Monitoring Report (AMR).²⁴⁷ Applicants and decision-makers should refer to the most recent LAA in relation to applications for aggregate minerals, and the most recent AMR for non-aggregate minerals.

Shortfall in landbank or productive capacity

- 4.23 Development of preferred areas may also be required where there is a shortfall in the required landbank or productive capacity for the relevant mineral identified or anticipated in the most recent LAA or AMR. The LAA and AMR may also highlight the potential for a shortfall in landbank or productive capacity if permitted reserves are close to minimum required levels and specific site and preferred area allocations are not coming forward as anticipated.²⁴⁸

Shortfall in supply for a particular use, specification or geographic market area

- 4.24 Development of preferred areas may also be required where there is a need for a material for particular uses or specifications, or where the location of existing permitted reserves and/or specific sites means they are unlikely to be able to provide a steady and adequate supply of mineral to a particular geographic market area. Where relevant, applicants will be expected to provide details of the particular markets, end uses or product specifications for which there is considered to be a shortfall in supply and should set out why these requirements cannot be met from extant sites or specific site allocations.

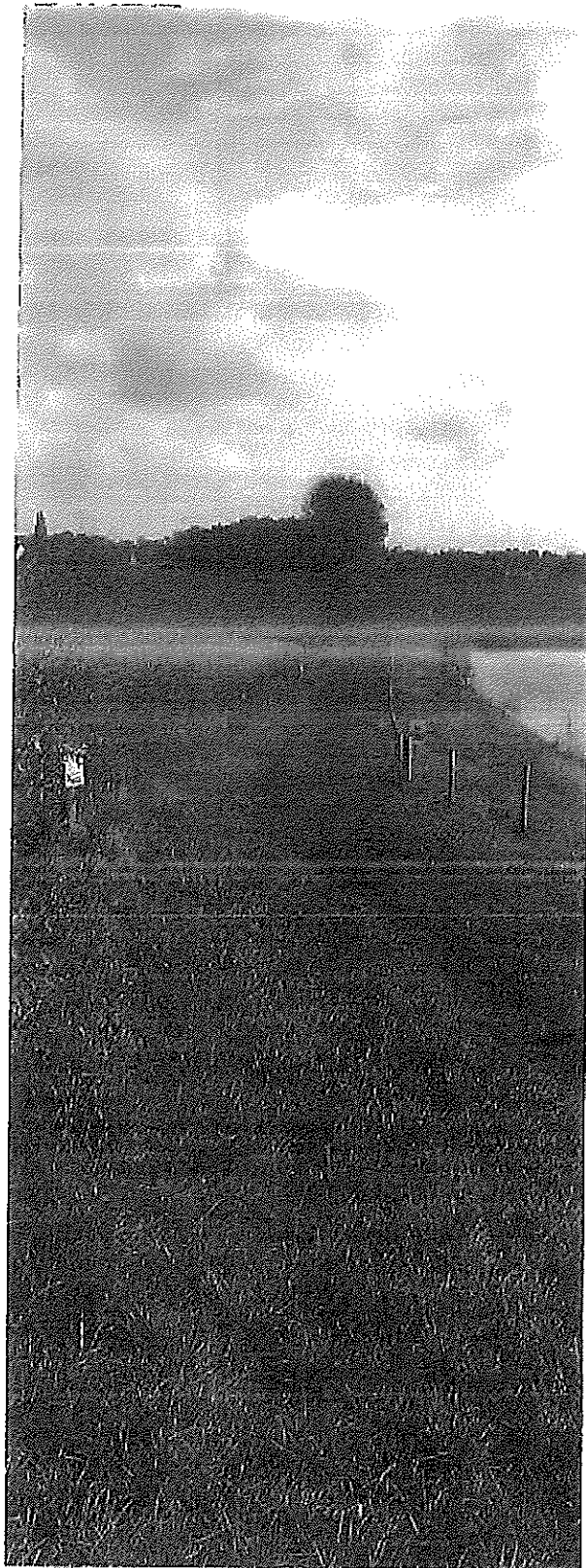
²⁴⁷ The Local Aggregate Assessment and Authority Monitoring Report are available at www.worcestershire.gov.uk/amr.

²⁴⁸ The Local Aggregate Assessment and Authority Monitoring Report are available at www.worcestershire.gov.uk/amr.

Likelihood of specific site and preferred area allocations for each broad mineral type

4.25 Preparation of a Mineral Site Allocations Development Plan Document (the Mineral Site Allocations DPD) was underway during the development, examination and adoption of the Minerals Local Plan.²⁴⁹ The sites submitted for consideration will be subject to assessment and consultation, and the Mineral Site Allocations DPD will be subject to examination in public before it can be adopted. It will also be reviewed and may be revised during the life of the Minerals Local Plan, but (subject to at least some of the sites proposed meeting the site-selection criteria) the types of sites submitted for consideration give an indication of the likelihood of specific sites and/or preferred areas being allocated for each broad mineral type:

- specific sites and/or preferred areas are likely to be allocated for sand and gravel as multiple sites (for both terrace and glacial sand and gravel, and solid sand resources) have been put forward for consideration;
- specific sites and/or preferred areas may be allocated for sites containing silica sand as a small number of sites have been put forward for consideration which have the potential to contain silica sand alongside solid sand resources;
- specific sites and/or preferred areas are not anticipated for crushed rock, brick clay, other industrial minerals, building stone or energy minerals as no sites have been put forward for consideration.



Public Right of Way at restored Church Farm
South quarry

249 The timetable for the preparation of the Mineral Site Allocations Development Plan Document is set out in the Local Development Scheme, available at www.worcestershire.gov.uk/kis.

Areas of search and windfall sites within the strategic corridors

Policy MLP 3: Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors

Contributing to:

Objectives MO1, MO2, MO3, MO4, MO5, MO6

Areas of search are allocated within the Avon and Carrant Brook, Lower Severn, North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors, as shown on Figure 4.1 (Key diagram) and defined on the Policies Map.*

- a) Planning permission will be granted for new mineral developments and extensions to extant sites within allocated areas of search where there is a shortfall in supply as demonstrated by part c.
- b) Planning permission will be granted for new mineral developments and extensions to extant sites on windfall sites within the strategic corridors where there is both a shortfall in supply as demonstrated by part c and either:
 - i. the mineral resource was not allocated due to viability, environmental or amenity constraints, and it is clearly demonstrated by the applicant that those constraints can be satisfactorily managed or mitigated; or
 - ii. the deposits were not known, or were not considered to be resources of local or national importance, and therefore did not inform the identification of mineral allocations, and sufficient geological and market data is provided by the applicant to demonstrate the presence of a nationally or locally important mineral resource.
- c) A shortfall in supply for a broad mineral type will be considered to exist where:
 - i. 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; or
 - ii. there are sufficient extant sites and allocated specific sites and/or preferred areas to meet the scale of provision required over the life of the plan but one of the following applies:
 - » there is a demonstrated shortfall in the landbank or stock of permitted reserves demonstrated in the most recent Local Aggregate Assessment (for aggregate development proposals) or Authority Monitoring Report (for non-aggregate development proposals); or
 - » there is a demonstrated shortfall in productive capacity in the most recent Local Aggregate Assessment (for aggregate development proposals) or Authority Monitoring Report (for non-aggregate development proposals); or
 - » there is a demonstrated shortfall in supply of the relevant mineral for particular uses or specifications which would be addressed by the proposed development; or
 - » there is a demonstrated shortfall for a particular geographic market area which would be addressed by the proposed development.

* The Policies Map defines the Minerals Local Plan's land-use designations and allocations and is available as part of an interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.

Reasoned justification

Areas of search

- 4.26 The allocated areas of search are shown on Figure 4.1 (Key diagram) and are defined on the Policies Map.²⁵⁰
- 4.27 There is less certainty that mineral development will come forward in the areas of search²⁵¹ than on specific sites and preferred areas, as they are based on an analysis of where mineral resources exist in the county which are not affected by significant viability, environmental or amenity constraints²⁵², but they are not sites which have been proposed by landowners or mineral operators. Areas of search have been allocated to provide a positive framework to ensure that a sufficient supply of minerals can be delivered over the life of the plan, to facilitate the minerals industry to find and put forward sites, and (combined with the strategic corridor priorities in policies MLP 8 to MLP 12) to provide as much certainty as possible to communities over where and how mineral development might take place if there is a shortfall in supply of a particular mineral.
- 4.28 Areas of search have been allocated for the majority of the types of mineral resources found in Worcestershire:
- 100 areas of search are allocated for sand and gravel (70 for terrace and glacial sand and gravel resources, and 30 for solid sand resources);
 - 41 areas of search are allocated for silica sand;
 - 13 areas of search are allocated for brick clay; and
 - 17 areas of search are allocated for building stone.²⁵³
- 4.29 No areas of search have been designated for crushed rock resources due to the viability, environmental and amenity constraints affecting the majority of the land in Worcestershire which contains crushed rock deposits.²⁵⁴ No areas of search have been designated for other types of mineral.

- 4.30 Whilst the allocation of areas of search indicates that the location of mineral development is likely to be acceptable, particularly where there is a shortfall in supply, the fact that a site has been allocated as an area of search will not override the need to ensure that the development proposed is sustainable. Planning applications for sites within areas of search and for windfall sites 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). In determining whether the location of a particular development proposal is acceptable, whether for a new site or an extension to an existing site, weight will be given to the need for the specific mineral, economic considerations (such as making efficient use of resources, retaining local jobs, or the ability to utilise existing plant and other infrastructure), environmental impacts and benefits, and any cumulative impacts of proposals in the area.

Windfall sites within the strategic corridors

- 4.31 The areas of search encompass all of the mineral resources within the strategic corridors which are not affected by significant viability, environmental or amenity constraints.²⁵⁵ However, it is possible that the constraints on a particular resource could be satisfactorily addressed by a particular development proposal, or that mineral deposits exist within the corridors which were either not considered to be a mineral resource of local or national importance or not known about during the development of the Minerals Local Plan.
- 4.32 The analysis of mineral resources which led to the identification of areas of search considered the available information about the mineral resources which are present in the county in order to evaluate the likelihood of them being suitable and commercially attractive for exploitation during the lifetime of the Minerals Local Plan. This included consideration of high-level viability criteria, and addressed the National Planning Policy Framework's requirement that plans should allocate land with

250 The Policies Map defines the Minerals Local Plan's land-use designations and allocations and is available as part of an interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.

251 Planning Practice Guidance defines "Areas of Search" as "areas where knowledge of mineral resources may be less certain but within which planning permission may be granted, particularly if there is a potential shortfall in supply". Ministry of Housing, Communities and Local Government. *Planning Practice Guidance, Minerals*, paragraph: 008 Reference ID: 27-008-20140306 Revision date: 06 03 2014.

252 See Worcestershire County Council (2021) *Analysis of Mineral Resources* and Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018), available at www.worcestershire.gov.uk/mineralsbackground.

253 Some flexibility will be applied when considering whether a proposal for building stone is within an area of search for building stone as these are based on point data.

254 See Chapter 2: Portrait of Worcestershire and Chapter 5: Supply of mineral resources.

255 See Worcestershire County Council (2021) *Analysis of Mineral Resources* and Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018), available at www.worcestershire.gov.uk/mineralsbackground.

the least environmental or amenity value²⁵⁶ by screening out land with national or international designations which should be afforded the highest level of protection.

4.33 The information available about the quantity and quality of resources is variable, and a number of assumptions were made to enable the strategic assessment of the viability of resources.²⁵⁷

Site-specific information about the quantity and quality of material in a particular deposit, or significant changes in the economic viability of a particular type of mineral, may indicate that the viability constraints can be overcome.

4.34 Whilst resources in areas with national or international designations have not been allocated as areas of search, it may be possible for a mineral development to be designed, worked and restored in such a way as to avoid causing harm or unacceptable impacts to those designated areas, or to manage or mitigate any impacts to an acceptable level. Where applicants consider this to be the case, they will need to clearly demonstrate this, in accordance with the policies set out in Chapter 6 (Development Management).

4.35 It is possible that over the plan period, applications may come forward to work mineral deposits which were either not known to exist at the time the plan was developed, or for which there was not sufficient evidence that they should be considered to be a mineral resource of national or local importance and were therefore not analysed for potential allocation in the Minerals Local Plan. Applicants will be expected to provide evidence to demonstrate the type, quantity and quality of the material proposed to be worked, and appropriate information to demonstrate that it is a nationally or locally important resource.

Shortfall in supply

4.36 Where extant sites and specific site or preferred area allocations are not sufficient to meet the scale of provision required for a particular mineral type over the life of the plan, mineral development on areas of search will be necessary to enable the steady and adequate supply of resources and will be supported. The scale of provision required for each type of mineral over the life of the plan is set out in Chapter 5 and will be monitored through the Local Aggregate

Assessment and Authority Monitoring Report,²⁵⁸ which will include consideration of whether specific site and preferred area allocations are coming forward as anticipated.

4.37 It may also be appropriate to bring forward development on windfall sites elsewhere within the strategic corridors, subject to meeting the requirements of part b of policy MLP 3.

4.38 A shortfall in extant sites and allocated specific sites and/or preferred areas will exist where:

- Permitted reserves at existing sites do not contain a sufficient amount of a particular mineral resource to meet the scale of provision required and the Mineral Site Allocations DPD has not yet been adopted;
- the specific sites and preferred area allocations, together with any permitted reserves at extant sites, do not collectively contain a sufficient amount of a particular mineral resource to meet the scale of provision required; or
- permitted reserves at existing sites do not contain a sufficient amount of a particular mineral resource to meet the scale of provision required, and sites for the particular mineral type have not been allocated because none were put forward, or those which were put forward did not meet site-selection criteria for allocation.

4.39 Even when the specific sites and preferred area allocations, together with any permitted reserves at extant sites, do collectively contain a sufficient amount of particular mineral resource to meet the scale of provision required, mineral development on areas of search and windfall sites may still be required where there is a shortfall in the required landbank or productive capacity for the relevant mineral identified or anticipated²⁵⁹ in the most recent Local Aggregate Assessment or Authority Monitoring Report, where there is a need for a material for particular uses or specifications, or where the location of existing permitted reserves and/or specific sites means they are unlikely to be able to provide a steady and adequate supply of mineral to a particular geographic market area. Where relevant, applicants will be expected to provide details of the particular markets, end uses or product specifications for which there is considered to be a shortfall in supply.

²⁵⁶ Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 175.

²⁵⁷ See *Worcestershire County Council (2021) Analysis of Mineral Resources*.

²⁵⁸ The *Local Aggregate Assessment* and *Authority Monitoring Report* are available at www.worcestershire.gov.uk/amr.

²⁵⁹ The *Local Aggregate Assessment* and *Authority Monitoring Report* may highlight the potential for a shortfall in landbank or productive capacity if permitted reserves are close to minimum required levels and specific site and preferred area allocations are not coming forward as anticipated.

Windfall sites outside the strategic corridors

Policy MLP 4: Strategic Location of Development – Windfall Sites outside the Strategic Corridors

Contributing to:

Objectives: MO1, MO5

Planning permission for new mineral developments and extensions to extant sites will be granted on windfall sites outside the strategic corridors where:

- a) the broad mineral type is not found within the strategic corridors; or
- b) the broad mineral type can be found within the strategic corridors, but it is demonstrated that the proposed development would enable the supply of mineral products with the properties necessary for specific uses or specifications which cannot be supplied in sufficient quantity from within the strategic corridors.

Reasoned justification

4.40 Crushed rock resources do not occur within the strategic corridors, and no areas of search have been designated for crushed rock due to the viability, environmental and amenity constraints affecting the majority of the land in Worcestershire which contains crushed rock resources. Specific sites and/or preferred area allocations are not anticipated for crushed rock as no sites have been put forward for consideration. Any sites for crushed rock will therefore necessarily be located on windfall sites outside the strategic corridors.

4.41 Sand and gravel, brick clay, silica sand, and building stone resources are all found within the strategic corridors, but where there is a need for a mineral with certain properties which are necessary for a particular use, but which cannot be supplied in sufficient quantity from within the strategic corridors, development on windfall sites outside the strategic corridors may be necessary. Any development proposal for these types of mineral outside the strategic corridors would need to include a proportionate level of technical information provided by an appropriate and competent expert to demonstrate the specific properties of the resource, the reasons why those particular properties are necessary, and evidence to demonstrate why material with the necessary properties cannot be supplied in sufficient quantity from within the strategic corridors.

4.42 The strategic corridors contain extensive areas of search for sand and gravel, and therefore it is highly likely that products with the necessary properties for most uses and specifications will be able to be delivered from within the strategic corridors.

4.43 The strategic corridors contain extensive areas of search for silica sand. The type of silica sand they contain is suitable for foundry uses (naturally bonded moulding sands). It is highly likely that silica sand with the necessary properties for foundry uses will therefore be able to be delivered from within the strategic corridors.

4.44 Whilst the strategic corridors contain extensive areas of search for brick clay, information about the quality and properties of the resources within the Mercia Mudstone Group is limited, and it is possible that other geological groups or formations in the county may also have the potential to provide brick clay resources. Applications for brick clay outside the strategic corridors will be supported where applicants demonstrate that clay with particular forming or firing properties, or for a particular blend of clays to achieve the colours or other aesthetic qualities required cannot be supplied in sufficient quantity from within the strategic corridors.

4.45 The strategic corridors only contain a limited number of areas of search for building stone, and these may not include all types of building stone. It is recognised that a project may call for a particular type of stone, and that there

can be significant variations in the appearance and characteristics of building stone, even within the same broad stone type. Proposals for building stone development outside the strategic corridors should include reference to the specific appearance and characteristics of the building stone required where variations in the appearance or characteristics of stone prevent those within the strategic corridors being suitable for use in a particular project.

- 4.46 It is possible that over the plan period, applications may come forward to work other types of mineral deposits which were either not known to exist at the time the plan was developed, or for which there was not sufficient evidence that they should be considered to be a mineral resource of national or local importance and were therefore not analysed for potential allocation in the Minerals Local Plan. Applicants will be expected to provide evidence to demonstrate the type, quantity and quality of the material proposed to be worked, and appropriate information to demonstrate

that it is a nationally or locally important resource. To justify development outside the strategic corridors, a proportionate level of technical information will need to be provided by an appropriate and competent expert to demonstrate why the material cannot be supplied in sufficient quantity from within the strategic corridors.

- 4.47 The suitability of each proposed windfall development, whether a new site or an extension to an existing site, must be considered on its individual merits against the policies of the Development Plan (including other policies within the Minerals Local Plan). In determining whether the location of a particular development is acceptable, weight will be given to the need for the specific mineral, economic sustainability (such as making efficient use of resources, retaining local jobs, or the ability to utilise existing plant and other infrastructure), environmental impacts and benefits, and any cumulative impacts of proposals in the area.



Processing crushed rock at Fish Hill Quarry

Proposals within or outside a strategic corridor

Policy MLP 5: Extant Mineral Sites and Safeguarded Resources

Contributing to:

Objectives MO1, MO5, MO6

Planning permission will be granted for:

- a) alterations to the mineral development permitted within the boundary of a site with extant planning permission, either within or outside a strategic corridor, subject to other parts of the Development Plan being satisfactorily addressed;
- b) mineral development within a Mineral Safeguarding Area (either within or outside a strategic corridor) which would prevent all or some of the mineral resource from being sterilised by non-minerals development in accordance with policy MLP 41.

Reasoned justification

Sites with extant mineral planning permission

- 4.48 Over the life of the plan, proposals to alter mineral development already permitted at sites with extant planning permission (including those which are permitted during the life of the plan) may arise, such as through periodic reviews of mineral planning permissions (ROMPs) or applications for the variation of planning conditions. Applications to vary planning conditions are not unusual for mineral sites, as development usually takes place over a number of years. For example, they may be required to enable more efficient working or processing of minerals, to amend restoration schemes to reflect particular site conditions which could not be anticipated at the time of the original application, or to reflect the latest best practice.
- 4.49 The principle of mineral development within the boundary of extant sites has already been established either in advance of the Minerals Local Plan being adopted, or after consideration against the tests of policies MLP 2-MLP 4. Policy support is therefore provided in policy MLP 5 to enable alterations to the development permitted within extant sites both within and outside the strategic corridors.
- 4.50 Whilst the principle of mineral development is already established by the extant planning permission, the suitability of any proposed alterations to the permitted development must be considered on their individual merits against the policies of the Development Plan (including other policies within the Minerals Local Plan).

Weight will be given to the need for the specific mineral, economic considerations (such as making efficient use of resources, retaining local jobs, or the ability to utilise existing plant and other infrastructure), environmental impacts and benefits, and any cumulative impacts of proposals in the area, and policy support to enable such alterations to existing permissions will not override the need to ensure that the development proposed is sustainable.

- 4.51 Any proposals to extend a site beyond the red line boundary of the existing permitted site will not be considered to be part of a site with extant planning permission, as the principle of mineral development has not been established on any additional land. The red line boundaries on extant planning permissions will be considered definitive when addressing this issue. Proposals for extensions to existing mineral sites will be considered on their own merits against the tests of Policy MLP 4, as appropriate.

Winning and working of resources to prevent sterilisation

- 4.52 If not properly planned, non-mineral development such as housing or commercial development can result in the sterilisation of mineral resources. This can be avoided by extraction of some or all of the mineral resource in advance of the non-mineral development taking place (or in phases alongside it), or by undertaking incidental recovery to utilise a portion of the mineral resource as part of site groundworks (see Chapter 7).



Building stone from Fish Hill Quarry

- 4.53 The location of such proposals will depend largely on other policies in the Development Plan that relate to the non-mineral development and will not necessarily reflect or be limited to the location of the strategic corridors. Planning applications will be expected to demonstrate how the proposed development will prevent resources from being sterilised. Where this cannot be satisfactorily demonstrated, the proposal will be considered as a standalone mineral working against the tests of Policy MLP 2 - MLP 4, as appropriate.
- 4.54 Planning conditions and planning obligations may be required to manage the relationship between the minerals extraction and the subsequent non- mineral development (see Chapter 7). Both the Mineral Planning Authority and relevant Local Planning Authority will need to be involved in discussions from the outset.
- 4.55 The suitability of each proposed development must be considered on its individual merits against the policies of the Development Plan (including other policies within the Minerals Local Plan). Support to enable such development will not override the need to ensure that the development proposed is sustainable, and weight will be given to the need to prevent sterilisation of resources, economic considerations, environmental impacts and benefits, and any cumulative impacts of proposals in the area.

Borrow pits

Policy MLP 6: Borrow Pits

Contributing to:

Objectives MO1, MO2, MO4, MO5, MO6

Planning permission will be granted for borrow pits, either within or outside the strategic corridors, where it is demonstrated that all of the following points apply:

- a) the borrow pit is operationally related to a specified project and the mineral extracted will only be used in connection with that project;
- b) the borrow pit is located on or in close proximity to the specified project, and material will be transported to its point of use with minimal use of public highways and without undue interference with the rights of way network;
- c) mineral extraction will be limited to the life of the specified project;
- d) the working and restoration of the borrow pit will deliver locally appropriate enhancements to existing green infrastructure networks; and
- e) the borrow pit will be restored to an appropriate final landform at the earliest opportunity, without the use of imported material, other than that generated by the specified project.

Reasoned justification

- 4.56 Borrow pits can contribute towards the sustainable supply of minerals by enabling the working of mineral resources that might not otherwise be practicable or financially attractive to extract. They can also enable other forms of development by providing a local source of material. Borrow pits directly serve a specific project nearby and proposals for borrow pits will therefore not necessarily reflect the location of mineral site allocations or the strategic corridors.
- 4.57 Borrow pits tend to be small-scale, short-term operations. Borrow pits can be a positive way of working resources which might not be appropriate as standalone workings or which were discounted from consideration as allocated sites due to the estimated volume of mineral at the site. Reduced transport distances can also reduce impacts on amenity and climate change in comparison to obtaining material from quarries further from the project.
- 4.58 To be classified as a borrow pit, proposals must meet all of the requirements of policy MLP 6 (Borrow Pits). Proposals that do not meet all the criteria in policy MLP 6 will be considered to be standalone mineral workings, not borrow pits.

Association with the specified project

- 4.59 It is important to ensure that borrow pits are closely linked to the project with which they are associated, and this will be an important factor in determining whether the location of a proposed development is acceptable. The proposal for the borrow pit development should include sufficient details of the associated project to enable this to be considered in the decision-making process. The coordinated submission of proposals may be appropriate in some cases, even where the proposals are submitted to different planning authorities. Planning conditions and/or planning obligations may be required to manage the relationship between the mineral extraction and the specified non-mineral development. The Mineral Planning Authority and relevant Local Planning Authority will both need to be involved in discussions from the outset.

Working and restoration

- 4.60 The wider impacts of borrow pits need to be fully considered. Working and restoration of borrow pits should be undertaken to the same standards as longer-term mineral workings in accordance with the Development Management policies set out in Chapter 6 (policies MLP 26 to MLP 40). Where the proposed borrow pit is within a strategic corridor, the priorities set out in the relevant policy (policies MLP 8 to MLP 12) will apply. In all locations, green infrastructure networks and the site's local context should inform working, restoration, and long-term management proposals, in accordance with policy MLP 7.
- 4.61 Borrow pits should be restored without the use of imported material, other than that generated by the specified project. This will enable the transport benefits to be fully realised. Proposals should demonstrate how an appropriate landform will be achieved and outline the balance between the mineral extracted and any fill material generated by the project. Where any fill material constitutes waste, consideration will need to be given to the requirements of the Waste Core Strategy.

Green infrastructure

- 4.62 Green infrastructure is a network of multifunctional green spaces and natural elements.²⁶⁰ It is capable of delivering a wide range of economic, environmental and quality of life benefits for local communities.²⁶¹ ²⁶² The underlying principle of green infrastructure is that the same area of land can frequently offer multiple benefits.
- 4.63 High-quality green infrastructure can drive economic growth and regeneration, helping to create high-quality environments which are attractive to businesses and investors. It can help deliver quality of life and health benefits by providing opportunities for recreation, social interaction and play, and it can reinforce and enhance landscape character, historic landscape character and local distinctiveness, contributing to a sense of place.²⁶³ It can enhance and restore the setting of heritage assets, and can make a significant contribution to halting the

decline in biodiversity.²⁶⁴ It can help to reduce air pollution, noise and the impacts of extreme heat and extreme rainfall events. It can help mitigate risks associated with climate change and adapt to its impacts by storing carbon, improving drainage, managing flooding and water resources, improving water quality, and can help species adapt to climate change by providing opportunities for movement.

- 4.64 Green infrastructure components considered in the planning, design and management of green infrastructure include biodiversity, the landscape, the historic environment, the water environment and publicly accessible green spaces and informal recreation sites. As well-being is an important part of delivering ecosystem services and ecological networks, the green infrastructure approach therefore integrates consideration of environmental, economic, health and social benefits to ensure delivery against both socio- economic and environmental objectives.
- 4.65 Considering networks of green spaces and natural elements in an integrated way ensures that measures are appropriate to the local context and are able to achieve benefits that are far greater than when individual components are considered in isolation. To ensure that these benefits are delivered, green infrastructure must be well planned, designed, managed and maintained.

260 Natural elements include rivers, streams, canals, woodlands, street trees, parks, rock exposures and semi-natural greenspaces.

261 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*.

262 Worcestershire Green Infrastructure Partnership, *Worcestershire Green Infrastructure Strategy 2013-2018*. Both the Worcestershire Local Enterprise Partnership and Worcestershire Local Nature Partnership are signatories to the Worcestershire Green Infrastructure Strategy.

263 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Natural Environment*, paragraph: 030 Reference ID: 8-030-20160211 Revision date: 11 02 2016

264 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Natural Environment*, paragraph: 030 Reference ID: 8-030-20160211 Revision date: 11 02 2016

Policy MLP 7: Green Infrastructure

Contributing to:

Objectives MO2, MO3, MO4, MO5

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.

A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the delivery of multiple benefits will be optimised, taking account of:

- a) the local economic, social and environmental context of the site;
- b) the potential impacts of climate change;
- c) site-specific opportunities to:
 - i. protect and enhance inherent landscape character;
 - ii. conserve, restore and enhance ecological networks and deliver net gains for biodiversity;
 - iii. conserve and enhance the condition, legibility and understanding of heritage assets and their setting;
 - iv. reduce the causes and impacts of flooding;
 - v. protect and enhance the surface water and groundwater resources at the local and catchment scale;
 - vi. improve the condition, legibility and understanding of geodiversity; and
 - vii. enhance the rights of way network and provision of publicly accessible green space;
- d) the green infrastructure priorities of the relevant strategic corridor (where the proposed development is within a strategic corridor) or the strategic context of green infrastructure components within the wider green infrastructure network (where the proposed development is not within a strategic corridor); and
- e) how green infrastructure benefits will be secured for the long term.

Where the proposed development is within a strategic corridor and the proposal would make very limited or no contribution to the delivery of the priorities of the relevant strategic corridor as a whole, this will only be considered appropriate where the economic, social and/or environmental benefits of the proposed development outweigh the benefits which could be realised by delivering the priorities of the relevant strategic corridor.

Reasoned justification

- 4.66 Mineral development can contribute towards maintaining and strengthening networks of green infrastructure through considered design and working methods. Economic, social and environmental benefits can be realised by incorporating multifunctional green infrastructure measures at any time during the life of the site, including preparation and working phases as well as restoration and after-use.
- 4.67 Holistic consideration of the local context and site-specific considerations will influence how green infrastructure can be delivered on individual sites whilst contributing towards the relevant strategic corridor priorities set out in policies MLP 8 to MLP 12.
- 4.68 The technical assessment required by policy MLP 7 should clearly set out how the consideration of the strategic corridor priorities, the local economic, social and environmental context, climate change, and each of the green infrastructure components in part d of policy MLP 7 have influenced the proposed balance of priorities to be delivered on the site, as well as the types of green infrastructure measures by which they will be addressed or delivered at each stage of a site's life.
- 4.69 This should clearly set out the benefits which the chosen suite of green infrastructure measures will deliver for the economy, communities and the environment, and how these have been informed by best practice examples and any national or local green infrastructure standards.

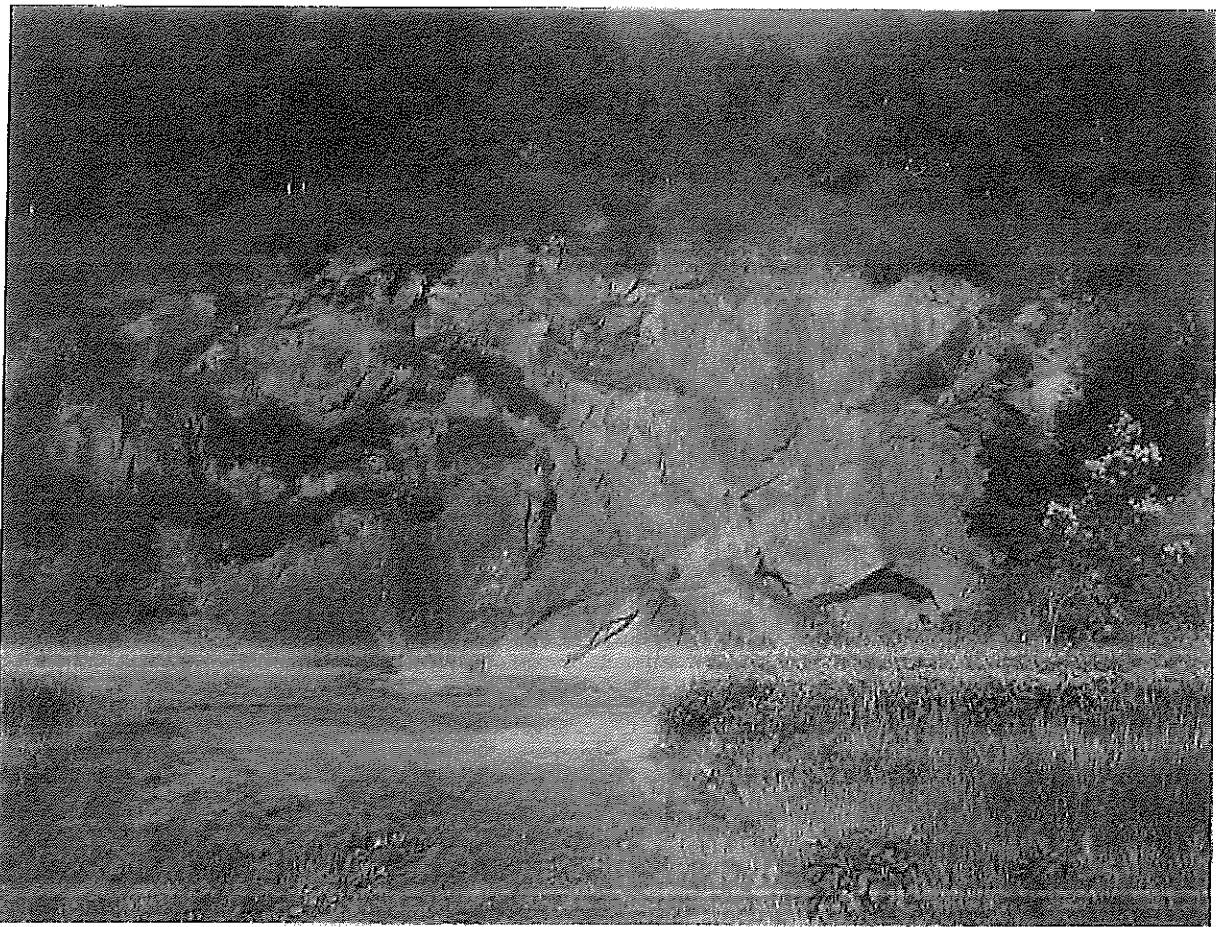
Local economic, social and environmental context

- 4.70 The technical assessment required by policy MLP 7 should set out what local economic, social and environmental opportunities and limitations exist or are likely to arise in and around the site. This should draw on the information in the technical assessments required by the development management policies in Chapter 6.
- 4.71 In developing proposals, consideration should also be given to the local economic, social and environmental context of the site in terms of the impacts and opportunities which are likely to occur at all stages of the site's life. This should include, but is not limited to, consideration of any objectives and aspirations set out in relevant Local or Neighbourhood Plans, information arising from pre-application consultation with local communities and stakeholders, any limitations or opportunities afforded by the topography or geology of the site and its surroundings, the site's relationship to wider ecological networks²⁶⁵ including the potential for habitats on site to support the migratory birds and fish of the Severn Estuary SAC, SPA and Ramsar site,²⁶⁶ the need to safeguard the long-term potential of best and most versatile agricultural land, any opportunities to contribute to maintaining and improving health and well-being²⁶⁷, and any cumulative impacts or cumulative opportunities arising from the development itself and/or from other existing or proposed development.

265 See https://www.worcestershire.gov.uk/info/20302/worcestershire_habitat_inventory.

266 This must be taken into account in Habitat Regulations Assessment Screening (see also policy MLP 31).

267 Depending on the scale and nature of the proposed development, health and well-being issues may be addressed as part of an Environmental Impact Assessment or through a standalone Health Impact Assessment (HIA) where there are expected to be significant health impacts. Health Impact Assessments can be a useful tool to identify and enhance the positive aspects of a proposal through assessment, while avoiding or minimising any negative impacts, with particular emphasis on disadvantaged sections of communities that might be affected. Worcestershire County Council (March 2016) *Health Impact Assessments in Planning Toolkit* advocates undertaking health impact screening to determine whether significant health impacts are likely to arise, prior to scoping the extent of any assessment which may be required. The toolkit is available at http://www.worcestershire.gov.uk/info/20122/joint_strategic_needs_assessment.



Biodiversity-rich rock face (courtesy of Herefordshire and Worcestershire Earth Heritage Trust)

Potential impacts of climate change

4.72 In developing proposals, consideration should be given to potential risks from climate change, as well as any opportunities for the site to contribute towards mitigating and adapting to climate change. The technical assessment required by policy MLP 7 should set out how any likely climate change impacts have been taken into account in site design, working and restoration proposals. This should include, but is not limited to, consideration of the impact of water shortages, flood risk, and land stability (subsidence and heave) on working, processing, mitigation, restoration and after-use.

4.73 The technical assessment should identify any necessary mitigation and adaptation measures. This should include consideration of how climate change mitigation and adaptation can be addressed through delivering multifunctional green infrastructure which contributes to wider climate change resilience, such as creating or enhancing habitat networks to allow species migration, or restoration schemes that provide opportunities for flood betterment or improved natural water storage. Technical assessments should also consider whether opportunities exist to minimise vulnerability and improve resilience of communities and infrastructure to climate change. This should take into account the long-term implications for flood risk, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures, as well as any opportunities to provide space for physical protection measures, or for the possible future relocation of vulnerable development and infrastructure.



Water meadows near Evesham

Site-specific and strategic green infrastructure opportunities

- 4.74 The components of green infrastructure have been considered holistically at a strategic scale to identify multifunctional priorities for each strategic corridor in policies MLP 8 to MLP 12. However, when developing site-specific proposals, consideration of each of the components in part c of policy MLP 7 may reveal opportunities which could not be identified at the strategic scale.
- 4.75 For sites both within and outside the strategic corridors, the technical assessment required by policy MLP 7 should consider each of the green infrastructure components in part c of policy MLP 7, drawing on the information in the technical assessments required by the development management policies in Chapter 6, and should set out any site-specific opportunities for conservation or enhancement of those components, or any site-specific opportunities to deliver multifunctional benefits which are identified. This should also include detailed consideration of how any site-specific opportunities could be integrated alongside the priorities of the relevant strategic corridor.
- 4.76 In some cases site-specific considerations may indicate that protecting and enhancing networks of green infrastructure can be maximised by focusing on specific components. This would benefit from pre-application discussions with the Mineral Planning Authority and relevant stakeholders, and should also be evidenced through the technical assessment.

- 4.77 Where the site is within a strategic corridor, the technical assessment should identify the location of the proposed development within the relevant strategic corridor. It should consider the interaction of the site with the local and surrounding network of green spaces and natural elements, and the potential for the site to contribute towards the priorities for the relevant corridor (as set out in policies MLP 8 to MLP 12). Consideration should be given to how the priorities are being delivered at other sites within the corridor, so that measures can be co-ordinated where appropriate, and to ensure that a balance of priorities is achieved over the life of the Minerals Local Plan. There may be circumstances where the greatest green infrastructure gains can be delivered, or any conflicts minimised, by focusing on only some of the priorities on an individual site. This will be supported where the proposed approach is strongly justified and evidenced through the technical assessment.
- 4.78 Where a site is not within a strategic corridor, the technical assessment required by Policy MLP 7 should set out how holistic consideration of the site in the context of the wider network of green infrastructure has led to the proposed suite of multifunctional green infrastructure measures designed to deliver multiple benefits across the site.

Securing green infrastructure benefits for the long term

- 4.79 Effective implementation and management will be critical to delivering the intended green infrastructure outcomes. Use of a 'benchmarking' system²⁶⁸ should be considered to quantify the enhancements proposed and delivered over the life of the site. This may also help to demonstrate that any national or local green infrastructure standards are met.
- 4.80 Green infrastructure requires sustainable management and maintenance arrangements if it is to provide benefits and services in the long term. The technical assessment required by policy MLP 7 should consider the whole life of a site, including the design of the site and its restoration scheme alongside the available options for managing green infrastructure, including funding its management over the long term, and should set out why the proposed option is considered appropriate for the site and how such arrangements will be secured. It should also identify how long-term management and maintenance considerations have influenced the site's overall design and proposed working, restoration and aftercare proposals.²⁶⁹ A green infrastructure strategy or concept plan for the site may be a useful tool to bring this information together.²⁷⁰
- 4.81 Long-term management beyond the statutory five year aftercare period may be required where appropriate, such as where this is necessary for new habitats to become established or to deliver community benefits.
- 4.83 The strategic corridors each have an inherent coherence. The various components of green infrastructure combine to influence the key characteristics of the landscape types within the corridors. The multifunctional priorities which are set out for each corridor will contribute to addressing strategic issues across the various green infrastructure components at a landscape scale.²⁷¹ These contributions will be appropriate to the key characteristics of the landscape types within each corridor²⁷² and will address climate change mitigation and adaptation, enable and support healthy lifestyles, improve air quality and conserve and enhance the natural, built and historic environment.
- 4.84 The priorities for each of the five corridors will be delivered through the working and restoration of multiple sites, both at new sites and through changes to planning permissions at existing sites as opportunities arise.²⁷³ Each development proposal will need to be assessed on a site-by-site basis, but the priorities set out in policies MLP 8 to MLP 12 will guide how sites are designed, worked and restored so that mineral development across a corridor over the life of the plan is coordinated to deliver the priorities. The local context will influence how the green infrastructure priorities can best be integrated to deliver multiple benefits at each stage of a site's life.

Strategic corridor priorities

- 4.82 Mineral development presents significant opportunities to deliver multifunctional gains through the integration of green infrastructure at a landscape scale. Green infrastructure priorities have been identified for each strategic corridor based on the consideration of a wide range of factors including the potential

268 Such as <https://www.buildingwithnature.org.uk>. Other green infrastructure benchmarks are likely to emerge over the life of the Minerals Local Plan.

269 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Natural Environment*, paragraph: 031 Reference ID: B-031-20160211 Revision date: 11 02 2016.

270 There is an established procedure for developing green infrastructure concept plans for major developments in Worcestershire through the Worcestershire Green Infrastructure Partnership. Examples can be viewed at www.worcestershire.gov.uk/GI.

271 The priorities have been developed in consultation with multiple stakeholders through a Minerals Green Infrastructure Steering Group which has been active throughout the development of the Minerals Local Plan to assist with embedding the Green Infrastructure approach. The group consists of Historic England (the Historic Buildings and Monuments Commission for England which was known as English Heritage until 1 April 2015); Environment Agency; Forestry Commission; Herefordshire & Worcestershire Earth Heritage Trust; Natural England; Nature After Minerals/ RSPB; Worcestershire Wildlife Trust, as well as officers from the following teams within Worcestershire County Council: Strategic Planning & Environmental Policy; Worcestershire Archive and Archaeology Service; Development Management: Water/Flooding (Lead Local Flood Authority); Countryside Access & Recreation.

272 Data relating to various green infrastructure components can be viewed on the interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.

273 See Worcestershire County Council (2012) *Landscape Character Assessment Supplementary Guidance* available at www.worcestershire.gov.uk/lca and Worcestershire County Council and Forestry Commission (2010) *Trees and Woodland in Worcestershire: Biodiversity and Landscape Guidelines for their planting and management* available at http://www.worcestershire.gov.uk/downloads/file/4790/woodland_guidelines.

274 Through ROMPs and planning applications to alter the conditions imposed as part of existing planning permissions.

- 4.85 The green infrastructure priorities seek to reflect and deliver benefits for the economic, social and environmental pillars of sustainability. Details of how the priorities contribute to each of these are set out in the reasoned justification supporting each strategic corridor policy. The policies also allow for specific economic, social and/or environmental benefits to justify a departure from delivering the priorities.
- 4.86 The strategic corridors are shown on Figure 4.1 (Key Diagram) and on the Policies Map which defines the Minerals Local Plan's land-use designations and allocations. The Policies Map is available on the interactive minerals mapping tool at www.worcestershire.gov.uk/minerals, and this mapping tool also includes additional supporting data to assist in the use and implementation of the Minerals Local Plan.

Avon and Carrant Brook Strategic Corridor

Characteristics of the corridor

- 4.87 The Avon and Carrant Brook Strategic Corridor is identified in the Key Diagram (Figure 4.1) and shown in detail in Figure 4.2. It covers 9,500 hectares of land, and broadly follows the course of the River Avon from north-east of Evesham to Worcestershire's boundary with Gloucestershire near Tewkesbury, and the course of the Carrant Brook from Beckford to the county boundary near Tewkesbury. The corridor skirts Bredon Hill, which is part of the Cotswolds AONB, and is approximately 540m at the closest point from the Bredon Hill SAC.
- 4.88 The landscape character of the Avon and Carrant Brook Strategic Corridor is made up of the secluded pastoral landscapes of the Riverside Meadows landscape type (characterised by meandering, tree-lined rivers, flanked by alluvial meadows which are defined by hedge and ditch boundaries), the open, rolling landscapes of the Principal Village Farmlands (characterised by a nucleated pattern of expanded rural villages, surrounded by large arable fields, often sub- divided into a series of smaller plots), and the planned lowland agricultural landscapes of the Village Farmlands with Orchards (an intensively cultivated landscape characterised by large cultivated fields and dominant orchard land use).²⁷⁵



Principal Village Farmlands landscape type

275 See Worcestershire's Landscape Character Assessment maps and guidance at www.worcestershire.gov.uk/lca.

- 4.89 Agricultural land uses dominate much of this corridor and are an important part of the local economy. This area makes a significant contribution to Worcestershire's strong base of horticultural and food sector businesses²⁷⁶, with 48.4% of the corridor being best and most versatile agricultural land,²⁷⁷ and land use in the Principal Village Farmlands being very strongly based on cropping and horticulture. Arable land uses and locally significant orchards also help to define the landscape character within the corridor. However, water shortages²⁷⁸ can present a challenge for businesses and key infrastructure in this corridor. There is also a high level of flood risk, with the corridor being affected by fluvial flooding from the River Avon as well as surface water and ground water flooding. As the corridor consists of flat valleys with wide floodplains away from the source of run-off generation, flood betterment opportunities are most likely to be measures associated with flood storage and floodplain connectivity.²⁷⁹ The majority of the watercourses in the corridor are not currently meeting Water Framework Directive targets for "good ecological status".²⁸⁰
- 4.90 The Avon and Carrant Brook Strategic Corridor has significant potential to deliver river corridor enhancements and biodiversity action plan targets for both species and habitats, with the Severn and Avon Vales Biodiversity Delivery Area²⁸¹ following the course of the River Avon through the corridor, and the majority of the corridor consisting of the "alluvial fenlands" or "river terraces" ecological zones where mineral working has the potential to rejuvenate the diversity of habitats and reintroduce wetlands to a largely drained and dry landscape.²⁸² It has potential to support wintering and passage bird populations of the Severn Estuary SPA and Ramsar site, for example by providing food and shelter at times of flooding or other extreme weather when normal roosting and feeding sites are unavailable. It also has potential to support migratory fish species of the Severn Estuary SAC and Ramsar site.
- 4.91 There are large numbers of designated heritage assets within the corridor, as well as large areas with very high archaeological potential. This includes extensive areas of Palaeolithic potential and Pleistocene faunal and environmental remains. Mineral working in this corridor has the potential to reveal and record geologically and historically significant information about the river patterns and environments in which the terraces of the River Avon were formed. Lowland areas are associated with complex, multi-period settlement sites with settlement enclosures surviving as earthworks on hilltop locations. Later prehistoric and Romano-British settlements are common on the more freely draining soils of the gravel terraces. The extant settlement pattern is medieval and post-medieval in origin and characterised by nucleated villages with some wayside settlement and estate farmsteads. Historic Landscape Character is reflected in the field patterns and hedgerow networks associated with enclosure during the 17th to 19th centuries of medieval open-fields and riverside pasture. There is a distinctive character of market gardening allotments and traditional orchard enclosures in the Vale of Evesham.
- 4.92 The network of public rights of way in the Avon and Carrant Brook Strategic Corridor is less dense than in other parts of the county, but the Wychavon Way long-distance path crosses the corridor. There are very few sites designated for their geological interest within the Avon and Carrant Brook Strategic Corridor.

276 Worcestershire Strategic Economic Plan (March 2014) <https://www.wlep.co.uk/wp-content/uploads/WLEP-Final-SEP-310314-V-1-1.pdf>

277 Based on Grade 1 and Grade 2 Agricultural Land, as the Provisional Agricultural Land Classification (1988) mapping does not distinguish between grade 3a and 3b land, and subsequent Post 1988 mapping is not comprehensive.

278 Environment Agency (February 2013) *Worcestershire Avon abstraction licensing strategy* states that consumptive abstraction is only available 50% of the time.

279 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

280 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

281 Information about the Worcestershire Biodiversity Action Plans and Biodiversity Delivery Areas is available at <http://www.worcestershire.gov.uk/biodiversity>.

282 Worcestershire County Council, *Biodiversity and mineral sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, available at www.worcestershire.gov.uk/mineralsbackground.

- 4.93 Mineral development in the Avon and Carrant Brook Strategic Corridor would be well located to serve planned growth in the Worcester area, Evesham and Pershore,²⁸³ and proposed growth in Tewkesbury²⁸⁴. Although there are good links to the strategic highway network in the north of the corridor, there may be capacity constraints on some routes, and road transport may be more challenging in the south. The River Avon is navigable throughout the corridor, although constraints on the size of the locks at Tewkesbury may limit onward transport to the River Severn. Two rail lines cross the corridor, although opportunities to connect to them may be limited.
- 4.94 The Avon and Carrant Brook Strategic Corridor contains 32.9%²⁸⁵ of the county's terrace and glacial sand and gravel resources and 1.2%²⁸⁶ of the county's Mercia Mudstone clay resource. The corridor is also widely underlain by clays of the Lias Group which are not considered to be a locally or nationally important mineral resource. Sand and gravel is known to have been worked at eight sites²⁸⁷ in the Avon and Carrant Brook Strategic Corridor in the past, but there are currently no extant workings²⁸⁸ within the Avon and Carrant Brook Strategic Corridor.
- 4.95 Mineral development in this corridor is most likely to be relatively shallow sand and gravel workings, with river terrace sand and gravel deposits in the corridor averaging 2.8 metres in depth. In some cases it may be possible to restore land to previous levels through the importation of materials, however this likely to be limited by the availability of suitable materials in the area, the current regulatory regime, the need to ensure that worked land is reclaimed at the earliest opportunity and the need to provide high-quality restoration.²⁸⁹ It is therefore likely that parts of a site might be restored to previous levels, but some areas of lower land may be necessary.
- 4.96 As the sand and gravel deposits in the Avon and Carrant Brook Corridor are believed to be relatively thin and dispersed,²⁹⁰ this may mean that centralised processing plant fed by multiple "satellite sites" working smaller deposits could be viable in this corridor. This could provide an efficient use of land and economic benefits through reducing the investment required in plant at individual working sites, as well as making the most of the relatively limited opportunities to access the strategic transport network in this corridor.

283 As proposed in the South Worcestershire Development Plan (adopted 2016).

284 As proposed in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (adopted 2017).

285 By area, based on the key and significant resources identified in Worcestershire County Council (2021) *Analysis of Mineral Resources*, available at www.worcestershire.gov.uk/mineralsbackground. The *Analysis of Mineral Resources* takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018).

286 By area, based on the Mercia Mudstone resource after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

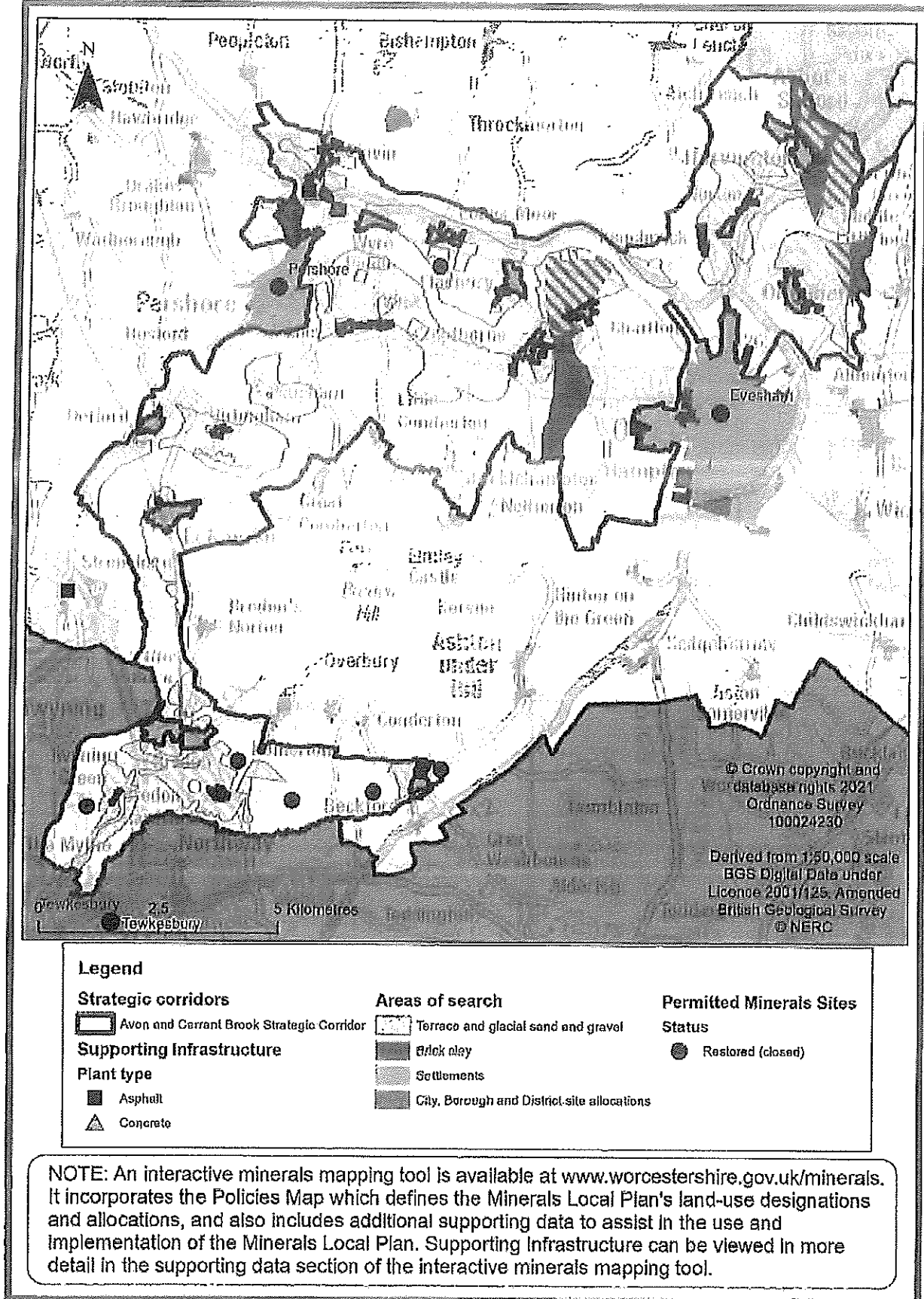
287 Lower Moor Quarry, Court Farm, Beckford Quarry, Costwold Plant Hire workings, Carrant Brook Pit, Aston Mill, Kemerton Quarry and Bredon's Hardwick Quarry. These can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

288 At 31st December 2017.

289 See policy MLP 26 (Efficient Use of Resources).

290 Garrett (1970) *The Sand and Gravel Resources of the Terrace Deposits of the River Avon from Tewkesbury to Harvington*.

Figure 4.2. Avon and Carrant Brook Strategic Corridor



Policy MLP 8: Avon and Carrant Brook Strategic Corridor

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted for mineral development within the Avon and Carrant Brook Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.

A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the development will, where practicable, optimise the contribution the site will make to delivery of the following green infrastructure priorities:

- a) create wetland features such as wet pasture, water meadows, reedbed, fen, marsh, and ditches during both working phases and as part of restoration and after-use, including where characteristic arable, cropping or horticultural land uses or orchards are incorporated;
- b) conserve, enhance and restore characteristic hedgerow patterns, and linear tree belts along hedge and ditch lines and along the banks of watercourses;
- c) link, extend and enhance the network of public rights of way and other public access routes, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area;
- d) in the Principal Village Farmlands and Village Farmlands with Orchards landscape types, conserve, enhance and restore lines of hedgerow fruit trees to define medium- to large-scale fields.

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.

Where the proposal would make very limited or no contribution to the delivery of these priorities as a whole, this will only be considered appropriate where the economic, social and/or environmental benefits of the proposed development outweigh the benefits of delivering the corridor priorities.

Reasoned justification

- 4.97 Policy MLP 8 sets the priorities for the delivery of multifunctional green infrastructure in the Avon and Carrant Brook Strategic Corridor. The balance of priorities in this strategic corridor is intended to integrate the delivery of priority habitats alongside agricultural land uses, where these land uses are important to the local economy or the character of the area. The priorities will contribute to multiple green infrastructure components, deliver economic benefits (particularly for horticulture and agriculture), as well as providing climate change adaptation and mitigation as a result of contributions to improving water quality, flood betterment and reducing water shortages.
- 4.98 The corridor priorities can be integrated and delivered alongside each other. Proposals should, wherever possible, seek to contribute to all of the priorities, although the ability to do

so will depend on the site-specific circumstance and, in some cases, it may not be possible or desirable to deliver all priorities within the boundaries of a single site when the size of the site or other local factors are taken into account. It may be that only some of the priorities are deliverable, due to the need to balance other considerations, including those set out in policy MLP 26 (Efficient Use of Natural Resources). The ability of an individual development to deliver only a single priority is likely to be exceptional, as the priorities have been carefully designed to be complementary to the local landscape, agricultural uses, geology and other green infrastructure components. Significant deviation from the priorities may be justified where there are site-specific opportunities to deliver significant economic, social and/or environmental benefits, however opportunities to deliver the priorities as part of, or alongside, any final after-use of the site should be fully considered. Applicants are encouraged to

explore the appropriate balance through pre-application discussion with the Mineral Planning Authority and relevant stakeholders.

- 4.99 The technical assessment required by policy MLP 8 will be expected to set out the considerations which have led to the proposed design of the site and the working, restoration and aftercare schemes, taking account of issues and opportunities identified through the consideration of policy MLP 7 (Green Infrastructure) and policies MLP 26 to MLP 40 (Development Management). The assessment should clearly specify how the proposed development will contribute to the green infrastructure priorities at each stage of the site's life, and why the proposed balance of priorities is considered to optimise the opportunities for delivering the priorities in that location. Where there is strong evidence to demonstrate that focusing on fewer priorities would deliver greater overall benefits than trying to deliver against all of the priorities for the corridor, this will be supported.

Create wetland features such as wet pasture, water meadows, reedbed, fen, marsh, and ditches during both working phases and as part of restoration and after-use, including where characteristic arable, cropping or horticultural land uses or orchards are incorporated

- 4.100 Wetland creation will aid natural flood management, flood storage and floodplain connectivity, as well as improving water quality. Incorporating floodplain and riverside vegetation can help to slow overland flows, increase infiltration and interception of rain and slow the velocity of water entering rivers. It can deliver biodiversity gains and Biodiversity Action Plan priorities by creating, linking and extending habitats, and will contribute to climate change resilience. It can also enhance the local landscape character and in some cases reflect historic land uses and land management techniques. The creation of wetland habitats on individual sites will largely be dependent on the local hydrology, including any seasonal changes.
- 4.101 Wetland features in the Avon and Carrant Brook Strategic Corridors should predominantly be wet pasture, meadows, reedbed, fen, marsh, and ditches, rather than open water. However, if open waterbodies are proposed, they should be designed to have serpentine and sinuous

edges with significant shallow areas, as broad drawdown zones will encourage marginal habitats including fen, marsh and reedbed to establish. The design of wetland habitats should consider the landscape character, retaining the medium- to large-scale field patterns, and opportunities to enhance the landscape and biodiversity benefits of the ditches and watercourses.

- 4.102 Wet pastures would contribute positively to the character of the Riverside Meadows landscape type and would help to deliver the aims of the Severn and Avon Vales Biodiversity Delivery Area. Opportunities to incorporate appropriate grazing practices and haymaking into the management of sites could contribute to the long-term economic viability of the land and deliver outcomes that ensure net biodiversity gain in the long term. However, after-use in these areas need not be restricted to agriculture and other proposals for the long-term management of wetland habitats will be welcomed.

- 4.103 In the Principal Village Farmlands and Village Farmlands with Orchards landscape types, where agricultural land quality is often high, arable land-uses (including cropping²⁹¹ and horticulture²⁹²) can contribute positively to the character and local distinctiveness of the landscape, as well as to the local economy. Conserving and restoring traditional orchards is particularly important in the Village Farmlands with Orchards landscape type and around villages where they form part of their local distinctiveness, and there should be an emphasis on the fruit type and varieties associated with the specific locality of the proposal. Restoration to these types of agricultural land uses can contribute to the economic vitality of the area, and deliver net biodiversity gain and benefits to the water environment where wetland habitats are integrated. Wetland habitats should be incorporated as wet field margins, ponds, pools and scrapes which would provide valuable habitats and natural water storage. In areas where agricultural land quality is lower, the creation of more extensive wetland habitats might be appropriate.

- 4.104 Wetland features should be delivered during working phases as well as during the restoration of sites. The site design, levels and phasing of

291 Cropping is the dominance of arable farming characterised by field vegetables and/or market gardening.

292 Horticulture is the dominance of arable farming characterised by growing fruits, vegetables, flowers, or ornamental plants.

workings should optimise opportunities for these features and habitats. Simple measures such as securely installing woody debris can assist the transfer of water from the river to the floodplain to increase floodplain storage volumes, or slow down flows within the channel.²⁹³ *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*²⁹⁴ provides useful information about the types of wetland habitats that might be appropriate and how these can be created and managed. The Worcestershire Habitat Inventory²⁹⁵ should be referred to when considering the opportunities to link and extend existing habitats.

- 4.105 In some cases, a stand-off zone may be required between the mineral working and any watercourses, but in areas where it is demonstrated to be safe and appropriate to do so, there may be opportunities for banks to be worked. This could provide opportunities to maximise resource efficiency, create a more natural river profile, link to wetland habitats, restore links to natural floodplains and create braided channels and in-channel features.

Conserve, enhance and restore characteristic hedgerow patterns, and linear tree belts along hedge and ditch lines and along the banks of watercourses

- 4.106 Linear tree belts along ditches, watercourses and in hedgerows, and the restoration of hedgerows²⁹⁶ will contribute to the structure and character of the landscape, the local distinctiveness of the area and the legibility of historic enclosure patterns in the landscape. Incorporating hedgerows and trees along watercourses can also help to improve biological and chemical water quality and reduce flood risk by slowing overland flows, increasing infiltration and interception of rain and slowing the velocity of water entering rivers. Tree belts and hedgerows can link and enhance habitats to provide an ecological network of connected habitats contributing to species resilience.

- 4.107 The conservation and enhancement of primary hedgerow patterns may help to protect long-distance views from the Cotswolds Area of

Outstanding Natural Beauty, and the special characteristics of the Area of Outstanding Natural Beauty and its setting should be considered.

- 4.108 Tree belts and hedgerow patterns should be conserved, enhanced and restored across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

Link, extend and enhance the network of public rights of way and other public access routes, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area

- 4.109 Linking, extending and enhancing the network of public access routes will increase opportunities for informal access and recreation, contributing to the health and well-being of local communities, and can preserve or restore historic or cultural links. It also offers opportunities to help people to interpret features and characteristics in the landscape and understand how they interact. This can help to strengthen sense of place through increased understanding of the geodiversity, heritage and character of the area. In some cases, routes adjacent to or with views of particular features may be sufficient to increase legibility and understanding of the feature. In other cases, signage or information boards may be appropriate.

- 4.110 Opportunities to link, extend and enhance routes should be considered across all phases of the site's life. Measures such as providing viewing or stopping points, increasing accessibility by replacing stiles with gates, or improving the surfacing, drainage or management of the route are likely to be appropriate, as well as linking or extending existing public rights of way and other public access routes, including long-distance recreation routes or planned and proposed Sustrans routes. Consideration of appropriate routes and opportunities to increase the legibility and understanding of the area should be integral to the design and layout of the site and any restoration proposals.

293 Environment Agency, Worcestershire County Council (June 2018) *Colchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

294 Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites* available at www.worcestershire.gov.uk/mineralsbackground.

295 See *Worcestershire Habitat Inventory* information at http://www.worcestershire.gov.uk/info/20014/planning/1029/worcestershire_habitat_inventory.

296 The primary hedgerow network consists of the hedgerows along roads, farm and parish boundaries, and the secondary hedgerow network is provided by the internal field boundaries.

In the Principal Village Farmlands and Village Farmlands with Orchards landscape types, conserve, enhance and restore lines of hedgerow fruit trees to define medium-to large-scale fields

- 4.111 Lines of hedgerow fruit trees to define the large fields of the village farmlands will contribute to conserving and enhancing landscape character, as well as providing locally appropriate habitats. Lines of hedgerow fruit trees, particularly damson, are a distinctive local feature, with some scattered tree cover along watercourses.
- 4.112 For sites in the Principal Village Farmlands and Village Farmlands with Orchards landscape types, consideration should be given to the conservation, enhancement and restoration of hedgerow fruit trees across all phases of the site's life. This should be integral to the design and layout of the site and any restoration proposals.

**Lower Severn Strategic Corridor
Characteristics of the corridor**

- 4.113 The Lower Severn Strategic Corridor is identified in the Key Diagram (Figure 4.1) and shown in detail in Figure 4.3. Lower Severn Strategic Corridor. It covers 3,280 hectares of land, and broadly follows the course of the River Severn from south of Worcester to the county boundary with Gloucestershire near Tewkesbury.
- 4.114 The landscape character of the Lower Severn Strategic Corridor is made up of the secluded pastoral landscapes of the Riverside Meadows landscape type (characterised by meandering, tree-lined rivers, flanked by alluvial meadows which are defined by hedge and ditch boundaries), the medium-scale, settled agricultural landscapes of the Settled Farmlands on River Terraces landscape type (where horticulture and cropping is the dominant land use, and fields are bounded by hedgerows, with tree cover largely concentrated in groups associated with dwellings), as well as a smaller area of the flat, low-lying, secluded pastoral landscape of the Wet Pasture Meadows landscape type (characterised by a regular pattern of hedged fields and ditches fringed by lines of willow and alder).²⁹⁷

- 4.115 Agricultural land uses dominate much of this corridor and are an important part of the local economy. This area makes a significant contribution to Worcestershire's strong base of horticultural and food sector businesses²⁹⁸, with 33.7% of the corridor being best and most versatile agricultural land.²⁹⁹ The free-draining, highly fertile sandy brown soils in the Settled Farmlands on River Terraces support an arable land use dominated by cash crops and market gardening, and the extensive areas of waterside meadows have been used for seasonal grazing in the Riverside Meadows.
- 4.116 There is a high level of flood risk in the Lower Severn Strategic Corridor, from fluvial flooding from the River Severn as well as surface water and ground water flooding. As the corridor covers lower parts of the catchment, located amongst flat valleys, much of it forms part of the functional floodplain. Being away from the source of run-off generation, flood betterment opportunities are most likely to be measures associated with flood storage and floodplain connectivity.³⁰⁰ The majority of the watercourses in the corridor are not currently meeting Water Framework Directive targets for "good ecological status".³⁰¹

297 See Worcestershire's *Landscape Character Assessment* maps and guidance at www.worcestershire.gov.uk/lca.

298 *Worcestershire Strategic Economic Plan* (March 2014) <https://www.wlep.co.uk/wp-content/uploads/WLEP-Final-SEP-310314-V-1-1.pdf>

299 Based on Grade 1 and Grade 2 Agricultural Land, as the Provisional Agricultural Land Classification (1988) mapping does not distinguish between grade 3a and 3b land, and subsequent Post 1988 mapping is not comprehensive.

300 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

301 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.



Settled Farmlands on River Terrace Landscape Type

4.117 The Lower Severn Strategic Corridor has significant potential to deliver river corridor enhancements and biodiversity action plan targets for both species and habitats, with the Severn and Avon Vales Biodiversity Delivery Area³⁰² covering the majority of the corridor as it follows the course of the River Severn. The whole of the corridor consists of the "alluvial fenlands" or "river terraces" ecological zones where mineral working has the potential to rejuvenate the diversity of habitats and reintroduce wetlands to a largely drained and dry landscape.³⁰³ The Lower Severn Strategic Corridor has potential to support wintering and passage bird populations of the Severn Estuary SPA and Ramsar site, for example by providing food and shelter at times of flooding or other extreme weather when normal roosting and feeding sites are unavailable. It also has potential to support migratory fish species of the Severn Estuary SAC and Ramsar site.

4.118 The Lower Severn Strategic Corridor forms part of the principal area of known prehistoric and Romano-British settlement sites and landscapes in Worcestershire. The gravel terraces of the River Severn from Worcester southwards have revealed extensive remains of settlement, land use and funerary sites. The broader meanders of the river have preserved palaeochannels and peat deposits rich in palaeo-environmental remains, and have been shown by excavation to be a focus of riverside activity from the Neolithic period onwards. This is also an area of extensive Palaeolithic potential. Mineral working in this corridor has the potential to reveal and record geologically and historically significant information about the river patterns and environments in which the terraces of the River Severn were formed. Historic landscape character is strongly influenced by nucleated medieval and post-medieval settlements with associated wayside and estate farmsteads set within 17th to 19th century field systems along the river terraces.

302 Information about the Worcestershire Biodiversity Action Plans and Biodiversity Delivery Areas is available at <http://www.worcestershire.gov.uk/biodiversity>.

303 Worcestershire County Council, *Biodiversity and mineral sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, available at www.worcestershire.gov.uk/mineralsbackground.

- 4.119 Although there are not many sites designated for their geodiversity interest in the corridor, the southern part of the Lower Severn Strategic Corridor is within the Abberley and Malvern Hills Geopark³⁰⁴ and there is a cluster of geological Sites of Special Scientific Interest and Local Geological Sites close to the village of Clifton.
- 4.120 There is a good network of public rights of way in the corridor, and the Severn Way long-distance path runs throughout its length. However, there is also an identified need for a strategic recreation asset in the Lower Severn Strategic Corridor³⁰⁵ to provide an alternative destination for visitors to the Malvern Hills and to serve the new developments that are planned to the south and west of Worcester.
- 4.121 Mineral development in the Lower Severn Strategic Corridor would be well located to serve planned growth in the wider Worcester area, Malvern and Pershore,³⁰⁶ and proposed growth in Tewkesbury³⁰⁷. There are good links to the strategic highway network throughout the majority of the corridor, although road transport may be more challenging to the west of the River Severn. The River Severn is navigable throughout the corridor, but there are no railway lines in the corridor. The River Severn is already used to transport minerals, enabling sites with centralised processing plant with good connections to the strategic highway network to access material from smaller or more remote "satellite" sites. This is likely to continue to be a viable option for accessing smaller mineral deposits in the Lower Severn Strategic Corridor, alongside traditional large sites with their own processing plant, and could provide an efficient use of land and economic benefits through reducing the investment required in plant at individual working sites.
- 4.122 The Lower Severn Strategic Corridor contains 15.5%³⁰⁸ of the county's terrace and glacial sand and gravel resources and 2.5%³⁰⁹ of the county's Mercia Mudstone clay resource. Sand and gravel has been worked extensively³¹⁰ in the Lower Severn Strategic Corridor. Clay was also worked in a borrow pit in the north of the corridor to provide material for Powick flood risk management scheme.
- 4.123 Mineral development in this corridor is most likely to be relatively shallow sand and gravel workings, with river terrace sand and gravel deposits in the corridor averaging 3.6 metres in depth. In some cases it may be possible to restore land to previous levels through the importation of materials, however this is likely to be limited by the availability of suitable materials in the area, the current regulatory regime, the need to ensure that worked land is reclaimed at the earliest opportunity and the need to provide high-quality restoration.³¹¹ It is therefore likely that parts of a site might be restored to previous levels, but some areas of lower land may be necessary.

304 More information about the Abberley and Malvern Hills Geopark is available at <http://geopark.org.uk>

305 The need for a strategic recreation asset is identified in the adopted *South Worcestershire Development Plan 2016* (<http://www.swdevelopmentplan.org/>) and the *Worcestershire Green Infrastructure Framework* (Document 3, www.worcestershire.gov.uk/GI). This is based on the access to, and capacity of, existing recreation assets and the impacts of planned housing growth. The *South Worcestershire Development Plan* identifies an area of search for a strategic recreation asset, known as "Clifton Water Park", at the old gravel pits around Sandford, south of Kempsey. However the provision of strategic recreation assets is not necessarily limited to the Clifton Water Park site.

306 As proposed in the *South Worcestershire Development Plan* (adopted 2016).

307 As proposed in the *Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031* (adopted 2017).

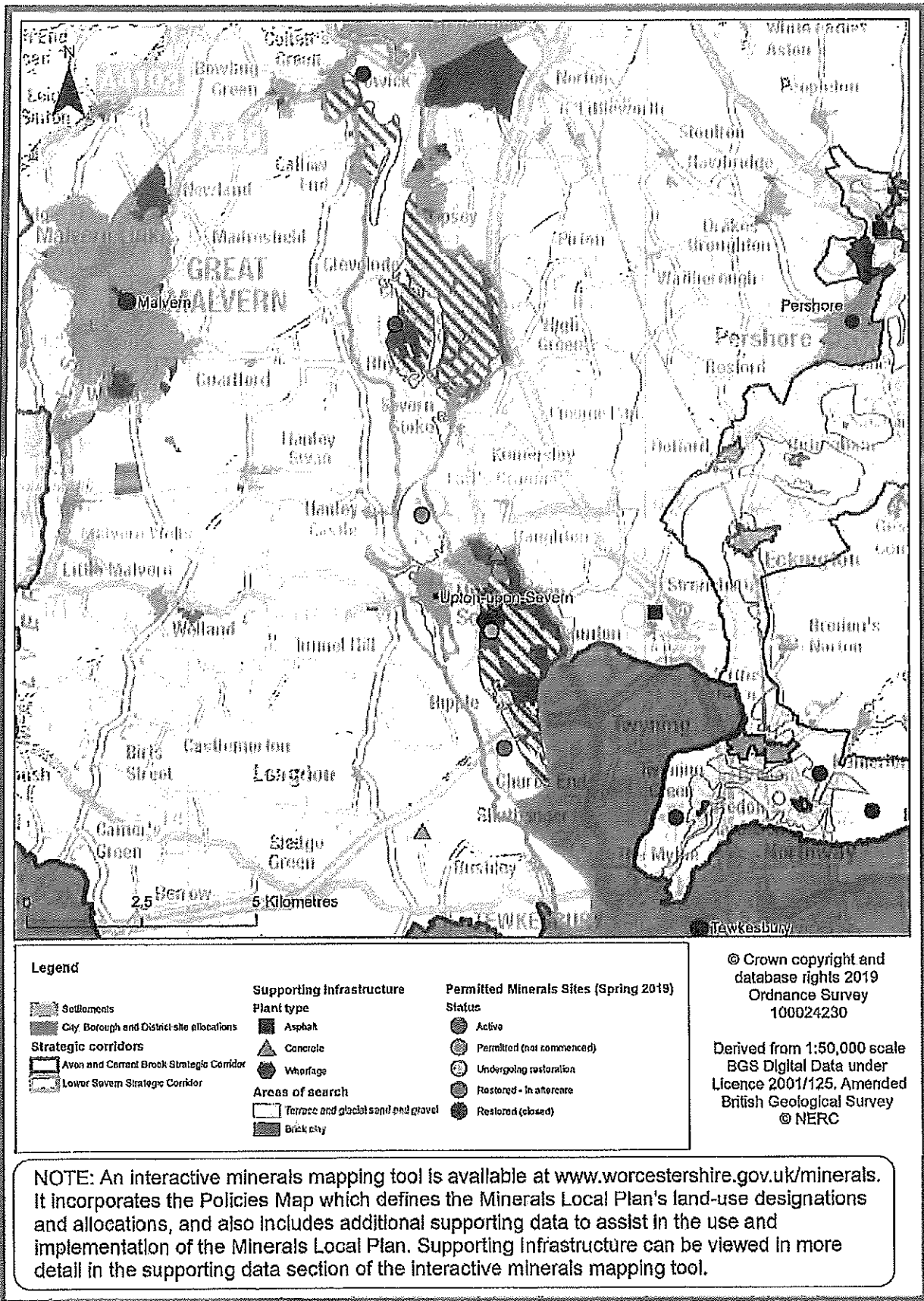
308 By area, based on the key and significant resources identified in Worcestershire County Council (2021) *Analysis of Mineral Resources*, available at www.worcestershire.gov.uk/mineralsbackground. The *Analysis of Mineral Resources* takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018).

309 By area, based on the Mercia Mudstone resource after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

310 Sand and gravel has previously been worked at Ryall House Farm Quarry, and its processing plant has subsequently been used to process material from the adjacent area known as Saxons Lode, as well as material transported by barge from Ripple Quarry and Ryall's Court Farm Quarry. Sand and gravel is also being worked at Clifton Quarry. These can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

311 See policy MLP 26 (Efficient Use of Resources)

Figure 4.3. Lower Severn Strategic Corridor



Policy MLP 9: Lower Severn Strategic Corridor

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted for mineral development within the Lower Severn Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.

A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the development will, where practicable, optimise the contribution the site will make to delivery of the following green infrastructure priorities:

- a) create wetland features such as fen and marsh, wet grassland, reedbed and lowland meadows during both working phases and as part of restoration and after-use, including where the following characteristic agricultural land uses are incorporated:
 - » cropping and horticulture in the Settled Farmlands on River Terraces landscape type;
 - » pastoral land use in the Riverside Meadows and Wet Pasture Meadows landscape types;
- b) conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines;
- c) create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area.

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.

Where the proposal would make very limited or no contribution to the delivery of these priorities as a whole, this will only be considered appropriate where the economic, social and/or environmental benefits of the proposed development outweigh the benefits of delivering the corridor priorities.

Reasoned justification

4.124 Policy MLP 9 sets the priorities for the delivery of multifunctional green infrastructure in the Lower Severn Strategic Corridor. The balance of priorities in this strategic corridor is intended to integrate improvements to flood plain connectivity, either alongside agricultural land uses where these are important to the local economy or the character of the area, or alongside semi-natural green spaces where they enhance existing recreation networks or provide an alternative visitor destination. The priorities have the potential to contribute to multiple green infrastructure components, including improving recreation provision for local communities and delivering social and economic benefits through flood betterment, as well as providing climate change adaptation and mitigation.

4.125 The corridor priorities can be integrated and delivered alongside each other. Proposals

should, wherever possible, seek to contribute to all of the priorities, although the ability to do so will depend on the site-specific circumstance and, in some cases, it may not be possible or desirable to deliver all priorities within the boundaries of a single site when the size of the site or other local factors are taken into account. It may be that only some of the priorities are deliverable, due to the need to balance other considerations, including those set out in policy MLP 26 (Efficient Use of Natural Resources). The ability of an individual development to deliver only a single priority is likely to be exceptional, as the priorities have been carefully designed to be complementary to the local landscape, agricultural uses, geology and other green infrastructure components. Significant deviation from the priorities may be justified where there are site-specific opportunities to deliver significant economic, social and/or environmental benefits, however opportunities to deliver the priorities as part of, or alongside,

any final after-use of the site should be fully considered. Applicants are encouraged to explore the appropriate balance through pre-application discussion with the Mineral Planning Authority and relevant stakeholders.

- 4.126 The technical assessment required by policy MLP 9 will be expected to set out the considerations which have led to the proposed design of the site and the working, restoration and aftercare schemes, taking account of issues and opportunities identified through the consideration of policy MLP 7 (Green Infrastructure) and policies MLP 26 to MLP 40 (Development Management). The assessment should clearly specify how the proposed development will contribute to the green infrastructure priorities at each stage of the site's life, and why the proposed balance of priorities is considered to optimise the opportunities for delivering the priorities in that location. Where there is strong evidence to demonstrate that focusing on fewer priorities would deliver greater overall benefits than trying to deliver against all of the priorities for the corridor, this will be supported.

Create wetland features such as fen and marsh, wet grassland, reedbed and lowland meadows during both working phases and as part of restoration and after-use, including where characteristic agricultural land uses are incorporated

- 4.127 Wetland creation will aid natural flood management, flood storage and floodplain connectivity, as well as improving water quality. Incorporating floodplain and riverside vegetation can help to slow overland flows, increase infiltration and interception of rain and slow the velocity of water entering rivers, with the potential to reduce flood risk by increasing storage volumes and encouraging overland flows in less vulnerable floodplain areas. It can deliver biodiversity gains and Biodiversity Action Plan priorities by creating, linking and extending habitats, and will contribute to climate change resilience. Wetland creation can also enhance the local landscape character and in some cases reflect historic land uses and land management techniques. The creation of wetland habitats on individual sites will largely be dependent on the local hydrology, including any seasonal changes.

- 4.128 Wetland features in the Lower Severn Strategic Corridors should predominantly be wet pasture, meadows, reedbed, fen, marsh, and ditches, rather than open water. However, if open waterbodies are proposed, they should be designed to have serpentine and sinuous edges with significant shallow areas, as broad drawdown zones will encourage marginal habitats including fen, marsh and reedbed to establish. The design of wetland habitats should consider the landscape character, retaining the local scale and pattern of enclosure, and opportunities to enhance the landscape and biodiversity benefits of the ditches and watercourses.

- 4.129 Wet pastures would contribute positively to the character of the Riverside Meadows and Wet Pasture Meadows landscape types and would help to deliver the aims of the Severn and Avon Vales Biodiversity Delivery Area. The quality of agricultural land in the Riverside Meadows landscape type is generally low, and permanent pasture is an important characteristic in these landscape types which is under pressure from increasing arable land uses. Conserving and restoring areas of permanent pasture will not only contribute to maintaining and enhancing landscape character and sense of place, but will also protect these habitats to provide an ecological network of connected habitats contributing to species resilience, and could also protect and enhance the setting of heritage assets. Returning land to pasture rather than arable uses in these landscape types could also help to minimise fragmentation of hedgerow structure by restoring their functionality. Opportunities to incorporate appropriate grazing practices and haymaking into the management of sites could contribute to the long-term economic viability of the land and deliver outcomes that ensure net biodiversity gain in the long term. However, after-use in these areas need not be restricted to agriculture and other proposals for the long-term management of wetland habitats will be welcomed.

- 4.130 In the Settled Farmlands on River Terraces landscape type, where agricultural land quality is often high, arable land-uses (including cropping³¹² and horticulture³¹³) can contribute positively to the character and local distinctiveness of the landscape. Restoration to these types of agricultural land uses can

312 Cropping is the dominance of arable farming characterised by field vegetables and/or market gardening.

313 Horticulture is the dominance of arable farming characterised by growing fruits, vegetables, flowers, or ornamental plants.

contribute to the economic vitality of the area, and deliver net biodiversity gain and benefits to the water environment where wetland habitats are integrated. Wetland habitats should be incorporated as wet field margins, ponds, pools and scrapes which would provide valuable habitats and natural water storage. In areas where agricultural land quality is lower, the creation of more extensive wetland habitats might be appropriate.

- 4.131 Wetland features should be delivered during working phases as well as during the restoration of sites. The site design, levels and phasing of workings should optimise opportunities for these features and habitats. Simple measures such as securely installing woody debris can assist the transfer of water from the river to the floodplain to increase floodplain storage volumes, or slow down flows within the channel.³¹⁴ *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*³¹⁵ provides useful information about the types of wetland habitats that might be appropriate and how these can be created and managed. The Worcestershire Habitat Inventory³¹⁶ should be referred to when considering the opportunities to link and extend existing habitats.
- 4.132 In some cases, a stand-off zone may be required between the mineral working and any watercourses, but in areas where it is demonstrated to be safe and appropriate to do so, there may be opportunities for banks to be worked. This could provide opportunities to maximise resource efficiency, create a more natural river profile, link to wetland habitats, restore links to natural floodplains and create braided channels and in-channel features.

Conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines

- 4.133 Tree cover along watercourses and streams, and the restoration of characteristic hedgerow patterns³¹⁷ will contribute to the structure and character of the landscape, the local distinctiveness of the area and the legibility of historic enclosure patterns in the landscape, and

could enhance the setting of heritage assets. Incorporating trees along watercourses can also help to improve biological and chemical water quality and reduce flood risk by slowing overland flows, increasing infiltration and interception of rain and slowing the velocity of water entering rivers. Trees and hedgerows can link and enhance habitats to provide an ecological network of connected habitats contributing to species resilience.

- 4.134 Linear tree belts along ditches, watercourses and in hedgerows are key characteristics of the Riverside Meadows, Wet Pasture Meadows and Settled Farmlands on River Terrace landscape types, all of which are comprised of large- to medium-sized fields with ditch and hedge boundaries.
- 4.135 In the Riverside Meadows landscape type, the conservation and enhancement of hedgelines should contribute to the secluded pastoral landscape and continuous tree cover along watercourses. Wet Pasture Meadows are also characterised by tree patterns along linear features and a regular pattern of hedged fields and ditches. Typical species in these landscape types are alder and willow. In the Settled Farmlands on River Terrace landscape type, sub-regular fields are bounded by hedgerows, with tree cover largely concentrated in the vicinity of settlement and in association with watercourses.
- 4.136 The conservation and enhancement of primary hedgerow patterns may also help to protect long-distance views from the Cotswolds AONB and the Malvern Hills AONB, and the special characteristics of these AONBs and their settings should be considered.
- 4.137 Tree cover and hedgerows should be conserved, enhanced and restored across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

314 Environment Agency, Worcestershire County Council (June 2018) *Calculation Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

315 Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, available at www.worcestershire.gov.uk/mineralsbackground.

316 See *Worcestershire Habitat Inventory* Information at http://www.worcestershire.gov.uk/info/20014/planning/1029/worcestershire_habitat_inventory.

317 The primary hedgerow network consists of the hedgerows along roads, farm and parish boundaries, and the secondary hedgerow network is provided by the internal field boundaries.



Fen and marsh habitats

Create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area

- 4.138 Creating accessible semi-natural green space will increase opportunities for informal access and recreation, contributing to the health and well-being of local communities. It also offers opportunities to help people to interpret features and characteristics in the landscape and understand how they interact. This can help to strengthen sense of place through increased understanding of the geodiversity, heritage and character of the area.
- 4.139 In some cases, spaces or routes adjacent to or with views of particular features may be sufficient to increase legibility and understanding of the feature. In other cases, signage or information boards may be appropriate. The southern part of the Lower Severn Strategic Corridor is within the Abberley and Malvern Hills Geopark,³¹⁸ and the retention and exposure of geological features could enhance the locally distinctive character of these areas, scientific and public understanding of the geology of the landscape and enhance the visitor appeal of both the accessible semi-natural green space created and the wider Geopark.

- 4.140 To be in keeping with the landscape character of the Lower Severn Strategic Corridor, accessible semi-natural green spaces or informal recreation sites should integrate wetland features and characteristic hedgerow, tree cover and field patterns. The topography and landform of the site should be considered in order to create an enjoyable and distinctive visitor experience, taking account of the long-term management requirements of the site.
- 4.141 There is an identified need for a strategic or sub- regional scale recreation asset of at least 100ha in the vicinity of the Lower Severn Strategic Corridor.³¹⁹ The inclusion of accessible semi- natural green space at a number of mineral developments could help to facilitate the provision of a strategic or sub-regional scale asset, or there may be opportunities for it to be provided by a single large site.
- 4.142 Consideration should be given to the phasing of working and restoration in order to allow safe access to semi-natural green space to be delivered as early as possible in the site's life, and proposals should give full consideration to whether the site could contribute to the creation of a strategic or sub-regional scale recreation asset. Any associated built development, such as to provide visitor facilities, is likely to require separate planning permission from the relevant Local Planning Authority.

318 More information about the Abberley and Malvern Hills Geopark is available at <http://geopark.org.uk>

319 Sites of over 100ha are classified as strategic or county level recreational sites, and sites of over 500ha are classified as sub-regional scale recreational sites. See Worcestershire Green Infrastructure Partnership's *Green Infrastructure Strategy 2013 - 2018* and *Green Infrastructure Framework Document 3*, available at www.worcestershire.gov.uk/GI.

North East Worcestershire Strategic Corridor

Characteristics of the corridor

- 4.143 The North East Worcestershire Strategic Corridor is identified in the Key Diagram (Figure 4.1) and shown in detail in Figure 4.4. North East Worcestershire Strategic Corridor. It covers 3,345 hectares of land, extending around the east and north of Bromsgrove up to Clent.
- 4.144 The landscape character of the North East Worcestershire Strategic Corridor is made up of the secluded small- to medium-scale, settled agricultural landscapes of the Principal Settled Farmlands landscape type (characterised by scattered farms, relic commons and hedged fields with thinly scattered hedgerow trees and groups of trees around dwellings), the small-scale rolling lowland, settled agricultural landscapes of the Settled Farmlands with Pastoral Land Use landscape type (characterised by hedged fields and streamside trees) and the open, formal landscapes of the Enclosed Commons landscape type (characterised by large fields of regular outline, straight field boundaries, and estate plantations).³²⁰
- 4.145 Although only 18.6% of the corridor is classed as best and most versatile agricultural land,³²¹ agricultural land uses are prevalent in much of this corridor; predominantly pastoral land use in the Settled Farmlands with Pastoral Land Use and a mixed agricultural land use being inherent to both the Principal Settled Farmlands and Enclosed Commons landscape types. Recent increases in arable dominance are evident, leading to the demise of the hedgerow structure which is critical to the character of these landscapes.
- 4.146 There is a high level of flood risk, with the corridor being affected by fluvial flooding from the River Salwarpe, the Blakedown Brook, the River Arrow and the Spadesbourne Brook as well as surface water and ground water flooding. As the corridor predominantly covers the upper parts of the catchment, with steep valleys which lead to generation of run-off, flood betterment is most likely to be achieved through the control and attenuation of run-off.³²² The majority of the watercourses in the corridor are not currently meeting Water Framework Directive targets for "good ecological status".³²³ There are multiple Source Protection Zones designated within the corridor.
- 4.147 Almost all of the North East Worcestershire Strategic Corridor consists of the "forest sandstones" ecological zone where mineral working has the potential for the creation of scarce habitats of high conservation value including lowland heathland, acid grassland and scrub, or rare mire and bog communities in damper areas.³²⁴ Habitats in the North East Worcestershire Strategic Corridor have the potential to support wintering and passage bird populations of the Severn Estuary SPA and Ramsar site, for example by providing food and shelter at times of flooding or other extreme weather when normal roosting and feeding sites are unavailable. The North East Worcestershire Strategic Corridor also has potential to support migratory fish species of the Severn Estuary SAC and Ramsar site.
- 4.148 The North East Worcestershire Strategic Corridor is associated with areas of Palaeolithic potential along watercourses. Evidence of later prehistoric and Romano-British settlement is sparse and the potential is unknown although there is evidence of lowland settlement with hilltop settlements in the wider setting. Extant settlements are of medieval and post-medieval origin with predominantly dispersed, wayside villages, hamlets and farmsteads. This area is also characterised as a landscape of medieval moats, some of which have farmsteads located within their bounds. Historic Landscape Character is broadly a mix of post-medieval piecemeal enclosure and later field patterns of land enclosed from former heathland and woodland. Areas of ridge and furrow earthworks point to the once large-scale occurrence of medieval open fields.
- 4.149 The network of public rights of way is more sparse in the east of the corridor than in the west. There is an identified need for a strategic recreation asset in or near to the North East Worcestershire Strategic Corridor to provide an alternative destination for visitors to the Lickey Hills and Clent Hills.³²⁵

320 See Worcestershire's *Landscape Character Assessment* maps and guidance at www.worcestershire.gov.uk/lca.

321 Based on Grade 1 and Grade 2 Agricultural Land, as the Provisional Agricultural Land Classification (1988) mapping does not distinguish between grade 3a and 3b land, and subsequent Post 1988 mapping is not comprehensive.

322 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

323 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

324 Worcestershire County Council, *Biodiversity and mineral sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, available at www.worcestershire.gov.uk/mineralsbackground.

325 The need for a strategic recreation asset is identified in the *Worcestershire Green Infrastructure Framework* (Document 3, www.worcestershire.gov.uk/GI). This is based on the access to, and capacity of, existing recreation assets and the Impacts of planned housing growth. The *Worcestershire Green Infrastructure Strategy* identifies a need to relieve visitor pressure on the Lickey Hills and Clent Hills. The *Worcestershire Green Infrastructure Strategy Framework 3* document suggests that this could be done through extending the green corridor and publicly-accessible open space east of the Lickey Hills to encompass Upper and Lower Blitell Reservoirs and the Worcester and Birmingham canal, however there are currently no proposals to develop this scheme further.

4.150 Mineral development in the North East Worcestershire Strategic Corridor would be well located to serve planned growth in Bromsgrove,³²⁶ Redditch,³²⁷ Droitwich Spa³²⁸ and the West Midlands conurbation. There are good links to the strategic highway network throughout the majority of the corridor, although there may be capacity constraints on some routes. The Worcester and Birmingham Canal skirts the south-eastern edge of the corridor and one railway line runs through it, although opportunities to connect to them may be limited.

4.151 The majority of the North East Worcestershire Strategic Corridor is within the Green Belt. 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.³²⁹ Minerals development also has the potential to enhance the beneficial use of the Green Belt³³⁰ through providing enhanced public access and recreation opportunities, enhancing landscapes, visual amenity and biodiversity, and improving damaged and derelict land.

4.152 The North East Worcestershire Strategic Corridor contains 4.0%³³¹ of the county's terrace and glacial sand and gravel resources, 24.9%³³² of the county's solid sand resources (including 23.2%³³³ of the Wildmoor Sandstone Formation which contains silica sand resources), 0.2%³³⁴ of the county's Mercia Mudstone clay resource, and four³³⁵ historic building stone sites. Sand and gravel (primarily solid sand) has been worked extensively³³⁶ and some silica sand has been worked³³⁷ in the North East Worcestershire Strategic Corridor.

4.153 Working in this corridor is therefore most likely to be for the relatively deep solid sands, which average 1.12.6 metres in depth in this corridor.

Although in some cases it may be possible to work these resources to a significant depth and to restore land to previous levels through the importation of materials, it is unlikely that it will be possible to work these resources to their full depth. The depth of working is likely to be limited by a combination of the availability of suitable materials in the area, the regulatory regime relating to landfilling, the need to ensure that worked land is reclaimed at the earliest opportunity and the need to provide high-quality restoration.³³⁸ It is therefore likely that sites in this corridor may not be worked as deeply as they have been previously, or that sites will need to be sensitively designed so that they are worked and restored to include some areas of lower land rather than restoring the whole site to previous levels.



Principal Settled Farmlands landscape type

326 As proposed in the Bromsgrove District Plan 2011-2030.

327 As proposed in the Borough of Redditch Local Plan No.4 2011-2030.

328 As proposed in the South Worcestershire Development Plan 2006-2030.

329 See policy MLP 27 (Green Belt) and Ministry of Housing, Communities and Local Government (July 2021) National Planning Policy Framework, section 13.

330 Ministry of Housing, Communities and Local Government (July 2021) National Planning Policy Framework, paragraph 145 states that "Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land".

331 By area, based on the key and significant resources identified in Worcestershire County Council (2021) Analysis of Mineral Resources, available at www.worcestershire.gov.uk/mineralsbackground. The Analysis of Minerals Resources takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document Location of development: screening and site selection methodology (August 2018).

332 By area, based on the key and significant resources identified in Worcestershire County Council (2021) Analysis of Mineral Resources, available at www.worcestershire.gov.uk/mineralsbackground. The Analysis of Minerals Resources takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document Location of development: screening and site selection methodology (August 2018).

333 By area, based on the Wildmoor Sandstone Formation resource after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) Location of development: screening and site selection methodology.

334 By area, based on the Mercia Mudstone resource after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) Location of development: screening and site selection methodology.

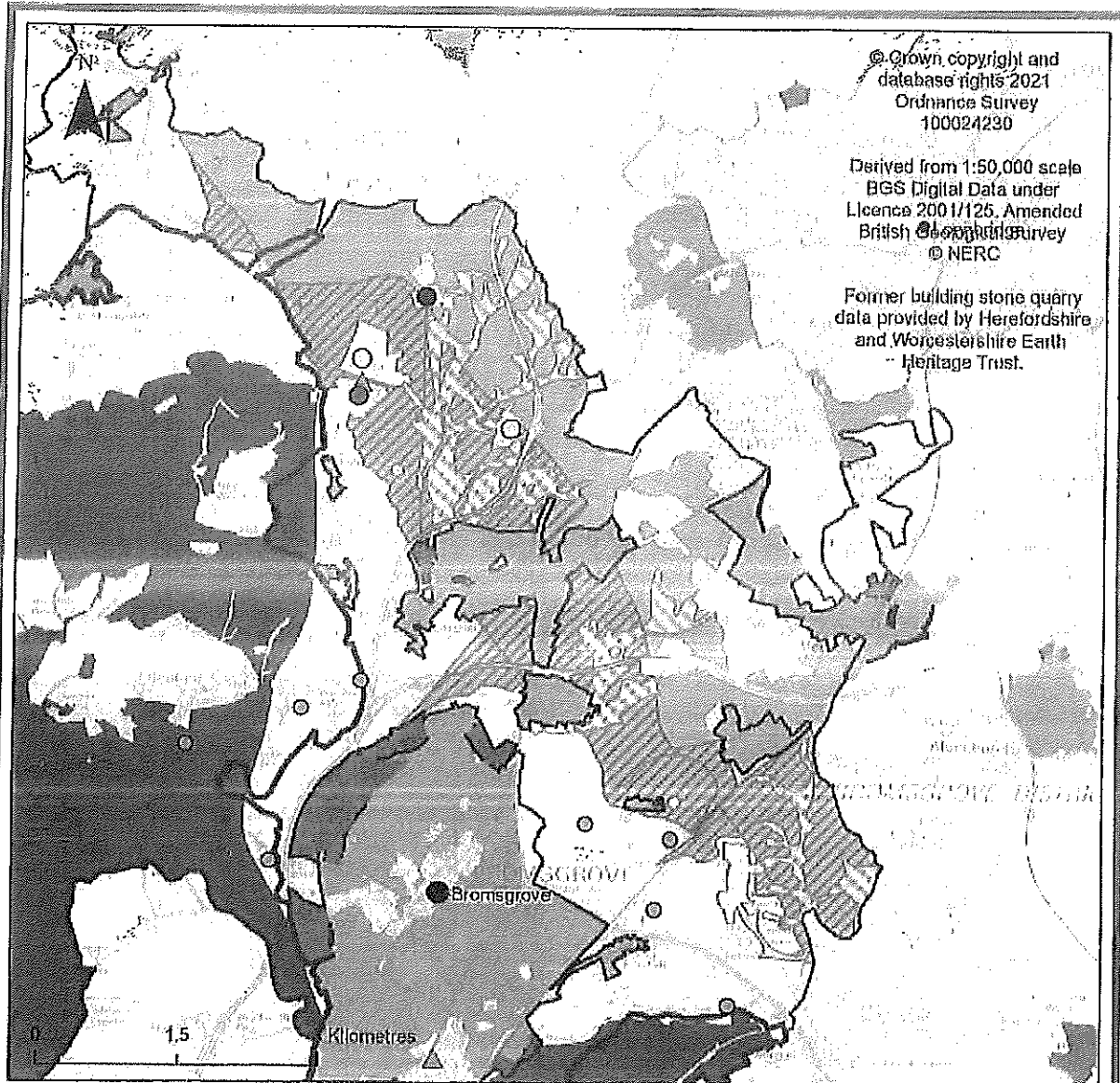
335 Based on the remaining historic building stone sites identified by Herefordshire and Worcestershire Earth Heritage Trust's project "A Thousand Years of Building with Stone" (<http://www.buildingstones.org.uk/>) after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) Location of development: screening and site selection methodology.

336 Sand and gravel has previously been worked at Chadwich Lane Quarry, Pinches Quarry 1, Pinches 2, and Shepley Quarry. At the plan's baseline date of 31st December 2016, Pinches 3 and Sandy Lane Quarry had permitted reserves but were inactive during 2016, and Wildmoor Quarry was active. These can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

337 Silica sand has been worked at Sandy Lane Quarry and Wildmoor Quarry. These can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

338 See policy MLP 26 (Efficient Use of Resources).

Figure 4.4. North East Worcestershire Strategic Corridor



Legend		
Settlements	Strategic corridors	Brick clay
Supporting Infrastructure	North East Worcestershire Strategic Corridor	Building stone
Plant type	Salwarpo Tributaries Strategic Corridor	Permitted Minerals Sites (Spring 2019)
Concrete	Areas of search	Status
City, Borough and District site allocations	Terrace and glacial sand and gravel	Active
	Silica sand	Inactive
	Solid sand sand and gravel	Restored - In aftercare

NOTE: An interactive minerals mapping tool is available at www.worcestershire.gov.uk/minerals. It incorporates the Policies Map which defines the Minerals Local Plan's land-use designations and allocations, and also includes additional supporting data to assist in the use and implementation of the Minerals Local Plan. Supporting Infrastructure can be viewed in more detail in the supporting data section of the Interactive minerals mapping tool.

Policy MLP 10: North East Worcestershire Strategic Corridor

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted for mineral development within the North East Worcestershire Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.

A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the development will, where practicable, optimise the contribution the site will make to delivery of the following green infrastructure priorities:

- a) conserve and restore permanent pasture, incorporating lowland heathland, acid grassland and scrub habitats;
- b) conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines;
- c) slow the flow of water in upper reaches of the catchment;
- d) create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area.

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.

Where the proposal would make very limited or no contribution to the delivery of these priorities as a whole, this will only be considered appropriate where the economic, social and/or environmental benefits of the proposed development outweigh the benefits of delivering the corridor priorities.

Reasoned justification

4.154 Policy MLP 10 sets the priorities for the delivery of multifunctional green infrastructure in the North East Worcestershire Strategic Corridor. The balance of priorities in this strategic corridor is intended to integrate the creation of scarce habitats of high conservation value with features that will slow the flow of water in the upper reaches of the catchment. These benefits will be delivered alongside the conservation and restoration of pasture, where this is important to the local economy or the character of the area, and alongside semi-natural green spaces where they enhance existing recreation networks or provide an alternative visitor destination. The priorities have the potential to contribute to multiple green infrastructure components, including improving recreation provision for local communities and delivering social and economic benefits through flood betterment, as well as providing climate change adaptation and mitigation.

4.155 The corridor priorities can be integrated and delivered alongside each other. Proposals should, wherever possible, seek to contribute to all of the priorities, although the ability to do so will depend on the site-specific circumstance and, in some cases, it may not be possible or desirable to deliver all priorities within the boundaries of a single site when the size of the site or other local factors are taken into account. It may be that only some of the priorities are deliverable, due to the need to balance other considerations, including those set out in policy MLP 26 (Efficient Use of Natural Resources). The ability of an individual development to deliver only a single priority is likely to be exceptional, as the priorities have been carefully designed to be complementary to the local landscape, agricultural uses, geology and other green infrastructure components. Significant deviation from the priorities may be justified where there are site-specific opportunities to deliver significant economic, social and/or environmental benefits, however opportunities to deliver the priorities as part of, or alongside, any final after-use of the site should be fully

considered. Applicants are encouraged to explore the appropriate balance through pre-application discussion with the Mineral Planning Authority and relevant stakeholders.

- 4.156 The technical assessment required by policy MLP 10 will be expected to set out the considerations which have led to the proposed design of the site and the working, restoration and aftercare schemes, taking account of issues and opportunities identified through the consideration of policy MLP 7 (Green Infrastructure) and policies MLP 26 to MLP 40 (Development Management). The assessment should clearly specify how the proposed development will contribute to the green infrastructure priorities at each stage of the site's life, and why the proposed balance of priorities is considered to optimise the opportunities for delivering the priorities in that location. Where there is strong evidence to demonstrate that focusing on fewer priorities would deliver greater overall benefits than trying to deliver against all of the priorities for the corridor, this will be supported.

Conserve and restore permanent pasture, incorporating lowland heathland, acid grassland and scrub habitats

- 4.157 Permanent pasture is an important characteristic of the Principal Settled Farmlands and Settled Farmlands with Pastoral Land Use landscape types, but it is under pressure from increasing arable land uses. Conserving and restoring areas of permanent pasture will not only contribute to maintaining and enhancing landscape character and sense of place, but will also contribute to a resilient and functional ecological network of connected habitats, and could also protect and enhance the setting of heritage assets. Returning land to pasture rather than arable uses could also help to minimise any further fragmentation of hedgerow structure by restoring their functionality.
- 4.158 Permanent pasture offers opportunities to deliver acid grassland habitats where there are areas of appropriate soils and geology. Where acid grassland is not appropriate, neutral grassland is encouraged to deliver biodiversity benefits, and these habitats are best delivered on poor quality soils. Lowland acid grassland habitats are scarce in Worcestershire and are sparsely distributed in the North East

Worcestershire Strategic Corridor despite being well suited to the underlying sandstone geology. Exposed sandy soils at mineral sites provide ideal conditions for heathland and scrub as well as acid grassland habitats, or rare mire and bog communities in damper areas. Heathland and scrub can develop naturally on bunds and mounds and other areas of exposed sandy soils during working phases, giving opportunities to deliver biodiversity benefits throughout the life of the site. These should also be incorporated into field margins as sites are restored, particularly where there are opportunities to buffer and connect existing habitats. The design and phasing of workings and soil management should ensure the retention of low-nutrient sandy soils for the creation of these habitats.

- 4.159 *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*³³⁹ provides useful information about the types of habitats that might be appropriate and how these can be created and managed. The Worcestershire Habitat Inventory³⁴⁰ should be referred to when considering the opportunities to link and extend existing habitats.

- 4.160 Opportunities to incorporate appropriate grazing practices and haymaking into the management of sites could contribute to the long-term economic viability of the land and deliver outcomes that ensure net biodiversity gain in the long term. However, after-use in these areas need not be restricted to agriculture and other proposals for the long-term management of habitats will be welcomed.

- 4.161 The conservation and restoration of permanent pasture, and the incorporation of lowland heathland, acid grassland and scrub habitats, should take place across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

339 Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites* available at www.worcestershire.gov.uk/mineralsbackground.

340 See *Worcestershire Habitat Inventory* information at http://www.worcestershire.gov.uk/info/20014/planning/1029/worcestershire_habitat_inventory.

Conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines

4.162 Tree cover along watercourses and streams, and the restoration of characteristic hedgerow patterns³⁴¹ will contribute to the structure and character of the landscape, the local distinctiveness of the area and the legibility of historic enclosure patterns in the landscape, and could enhance the setting of heritage assets. Incorporating trees along watercourses can also help to slow overland flows, increase infiltration and interception of rain and slow the velocity of water entering rivers. Trees and hedgerows can link and enhance habitats to provide a resilient and functional ecological network of connected habitats contributing to species resilience.

4.163 Each of the component landscape types in the North East Worcestershire Strategic Corridor has its own characteristic hedgerow and tree cover patterns, and development proposals will be expected to respect these:

- In the Principal Settled Farmlands landscape type, there is an irregular enclosure pattern with hedges defining the small- and medium- sized fields. Tree cover is most notable along stream sides, with only scattered tree cover along hedgerows. Groups of trees and orchards are often associated with settlements. Opportunities for new tree planting are best concentrated along watercourses, strengthening the linear pattern of these features. Additional tree cover in the vicinity of farmsteads and other settlements is encouraged in order to emphasise the pattern of tree cover in domestic settings in this landscape type. Woodland is not characteristic of this landscape type.

- In the Settled Farmlands with Pastoral Land Use landscape type, there is a sub-regular enclosure pattern with hedges defining the small- and medium-sized fields. Hedgerow trees are particularly important, together with linear tree cover associated with watercourses. These existing patterns of hedgerows and tree cover should be conserved, and opportunities for new tree planting should be focused on strengthening and restoring hedgerow tree populations and the tree cover associated with watercourses. Woodland is not characteristic of this landscape type.
- In the Enclosed Commons landscape type, there is a regular, geometric pattern of enclosure with straight hedged boundaries. Tree cover along watercourses can contribute significantly to the landscape structure but hedgerow tree cover is generally far less significant than in the other landscape types of the North East Worcestershire Strategic Corridor. Hedgerow tree planting is not encouraged in the Enclosed Commons landscape. Instead, priority should be given to restoring the distinctive hedgerow pattern and trees along watercourses. Discrete blocks of estate woodland plantations are present in this landscape type.

4.164 English elm, hawthorn, blackthorn and damson are the principal component hedgerow tree species in the North East Worcestershire Strategic Corridor. In the southern part of the corridor which overlaps the Forest of Feckenham Biodiversity Delivery Area, holly may be found locally and local varieties of fruit trees could be appropriate.

4.165 Tree cover and hedgerows should be conserved, enhanced and restored across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

341 The primary hedgerow network consists of the hedgerows along roads, farm and parish boundaries, and the secondary hedgerow network is provided by the internal field boundaries.

Slow the flow of water in upper reaches of the catchment

- 4.166 The control and attenuation of run-off in the upper parts of the catchments covered by the North East Worcestershire Strategic Corridor will have the potential to reduce downstream flood risk and increase drought resilience.³⁴² It could also improve water quality and riverine habitats, and could help to reduce the social and economic impacts of flooding.
- 4.167 Measures to help slow the flow of water which are likely to be appropriate to the topography and hydrology of the North East Worcestershire Strategic Corridor include:³⁴³
- creating “leaky” barriers (soil, wood or stone) across a flow path to intercept overland flow and create water storage which will drain slowly;
 - incorporating scrapes, swales, wetlands and other sustainable drainage features into the topography of the site to manage local flow pathways by catching and storing run-off and sediments and slowing the water before it reaches the main river;
 - managing soil and vegetation to reduce compaction and lower the water table through increased vegetation and root penetration or through measures to reduce erosion, compaction and hydrophobicity, so that the water storage capacity of the soil is increased and surface run-off is reduced;
 - damming gullies or field drains to form pools;
 - securely installing woody debris to hold water back in the upper reaches of the catchment, attenuating flood risk downstream;
 - removing culverts and naturalising channels and watercourses to make more space for water; or
 - incorporating two-stage channels on smaller watercourses where water levels can vary drastically between low flows and peak flows to increase velocity and depth during low flows whilst increasing in-channel capacity and reducing velocity during peak flows.
- 4.168 Consideration should be given to slowing the flow of water throughout all phases of the site’s life, and this is expected to be integral to the design and layout of the site and any restoration proposals.

342 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

343 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.



Exposed face of solid sand deposits at Pinches Quarry (courtesy of Herefordshire and Worcestershire Earth Heritage Trust)

Create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area

- 4.169 Creating accessible semi-natural green space will increase opportunities for informal access and recreation, contributing to the health and well-being of local communities. It also offers opportunities to help people to interpret features and characteristics in the landscape and understand how they interact. This can help to strengthen sense of place through increased understanding of the geodiversity, heritage and character of the area, and could help to enhance the beneficial use of the Green Belt.
- 4.170 In some cases, spaces or routes adjacent to or with views of particular features may be sufficient to increase legibility and understanding of the feature. In other cases, signage or information boards may be appropriate. To be in keeping with the landscape character of the North East Worcestershire Strategic Corridor, accessible semi-natural green spaces or informal recreation sites should integrate characteristic hedgerow, tree cover and field patterns. The topography and

landform of the site should be considered in order to create an enjoyable and distinctive visitor experience, taking account of the long-term management requirements of the site.

- 4.171 There is an identified need for a strategic or sub- regional scale recreation asset of at least 100ha in the vicinity of the North East Worcestershire Strategic Corridor.³⁴⁴ The inclusion of accessible semi-natural green space at a number of mineral developments could help to facilitate the provision of a strategic or sub-regional scale asset, or there may be opportunities for it to be provided by a single large site.
- 4.172 Consideration should be given to the phasing of working and restoration in order to allow safe access to semi-natural green space to be delivered as early as possible in the site's life, and proposals should give full consideration to whether the site could contribute to the creation of a strategic or sub-regional scale recreation asset. Any associated built development, such as to provide visitor facilities, is likely to require separate planning permission from the relevant Local Planning Authority.

³⁴⁴ Sites of over 100ha are classified as strategic or county level recreational sites, and sites of over 500ha are classified as sub-regional scale recreational sites. See Worcestershire Green Infrastructure Partnership's *Green Infrastructure Strategy 2013 – 2018* and *Green Infrastructure Framework Document 3*, available at www.worcestershire.gov.uk/GI.

North West Worcestershire Strategic Corridor

Characteristics of the corridor

- 4.173 The North West Worcestershire Strategic Corridor is identified in the Key Diagram (Figure 4.1) and shown in detail in Figure 4.5. North West Worcestershire Strategic Corridor. It covers 5,390 hectares of land, and broadly covers the area around Stourport-on-Severn and Kidderminster up to the county boundary near Kinver and Stourbridge.
- 4.174 The landscape character of the North West Worcestershire Strategic Corridor is made up of the open, rolling landscapes of the Sandstone Estatelands landscape type (characterised by an ordered pattern of large, arable fields, straight roads and estate plantations), and the secluded pastoral landscapes of the Riverside Meadows landscape type (characterised by meandering, tree-lined rivers, flanked by alluvial meadows which are defined by hedge and ditch boundaries).³⁴⁵
- 4.175 Although agricultural land quality in this corridor is relatively low, with only 11.4% of the corridor being best and most versatile agricultural land,³⁴⁶ arable land uses dominate the Sandstone Estatelands, with some woodland plantations, and grazing dominates the waterside meadows of the Riverside Meadows.
- 4.176 There is a high level of flood risk, with the corridor being affected by fluvial flooding from the River Severn and River Stour, as well as surface water and ground water flooding. The corridor predominantly covers lower parts of the river catchments it intersects with, particularly along the River Severn and the Hoo Brook, but also covers upper parts of the Stour and Blakedown Brook catchments. Flood betterment opportunities will include control and attenuation of run-off in the upper parts of a catchment and flood storage and floodplain connectivity in the lower parts of a catchment. The majority of the watercourses in the corridor are not currently meeting Water Framework Directive targets for "good ecological status".³⁴⁷ There are multiple Source Protection Zones designated within the corridor.



Sandstone Estatelands landscape type (Lower Habberley, Worcestershire)

345 See Worcestershire's *Landscape Character Assessment* maps and guidance at www.worcestershire.gov.uk/lca.

346 Based on Grade 1 and Grade 2 Agricultural Land, as the Provisional Agricultural Land Classification (1988) mapping does not distinguish between grade 3a and 3b land, and subsequent Post 1988 mapping is not comprehensive.

347 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

4.177 The North West Worcestershire Strategic Corridor has significant potential to deliver biodiversity action plan targets for both species and habitats, with the Wyre Forest Acid Heaths Biodiversity Delivery Area³⁴⁸ covering the centre of the corridor. Much of the corridor consists of the "forest sandstones" ecological zone where mineral working has the potential for the creation of scarce habitats of high conservation value including heathland, acid grassland and scrub, or rare mire and bog communities in damper areas. Some areas to the north and south of Kidderminster consist of the "river terraces" ecological zone where mineral working has the potential to rejuvenate the diversity of habitats and reintroduce wetlands to a largely drained and dry landscape. Where the "alluvial fenlands" ecological zone follows the watercourses through the corridor, mineral working could provide the conditions to enable natural succession to a diversity of rich wetland habitats including fen, wet grassland and wet woodland.³⁴⁹ Habitats in the North West Worcestershire Strategic Corridor have the potential to support wintering and passage bird populations of the Severn Estuary SPA and Ramsar site, for example by providing food and shelter at times of flooding or other extreme weather when normal roosting and feeding sites are unavailable. The North West Worcestershire Strategic Corridor also has potential to support migratory fish species of the Severn Estuary SAC and Ramsar site.

4.178 The North West Worcestershire Strategic Corridor has areas of Palaeolithic potential throughout, with concentrations along the River Stour, and evidence for Mesolithic settlement and activity in the vicinity of the River Severn. There is evidence for later prehistoric settlement on hilltops and promontories and on lower gravel terraces of the Severn Valley. The historic settlement pattern is dominated by dispersed, wayside hamlets and farmsteads of medieval and post-medieval origin. Historic Landscape Character is broadly contrasting between landscapes of small, irregular field patterns derived from medieval and post-

medieval piecemeal enclosure, and landscapes with larger, more regular-shaped field patterns that are mostly 18th and 19th century in origin. These derive from the reorganisation of earlier field systems, the enclosure of formerly unenclosed heathland, field amalgamation and Parliamentary Inclosure.

4.179 There are several designated sites for geodiversity interest in the corridor. Although river terrace deposits are relatively limited in the North West Worcestershire Strategic Corridor, any mineral working within them has the potential to reveal and record evidence of the events surrounding establishment of the present course of the River Severn in glacial times. The southern and western parts of the corridor are within the Abberley and Malvern Hills Geopark,³⁵⁰ and the Geopark Way crosses the corridor between Kidderminster and Stourport-on-Severn. The Severn Way and the North Worcestershire Path long-distance routes also cross the corridor. There are also a number of shorter recreation routes in the corridor, but the network of public rights of way is relatively sparse in the north-east of the corridor. There is an identified need for a strategic recreation asset in the vicinity of the North West Worcestershire Strategic Corridor to relieve pressure on the six existing sub-regional scale accessible semi-natural green spaces in Wyre Forest District.³⁵¹

4.180 Mineral development in the North West Worcestershire Strategic Corridor would be well located to serve planned growth in Stourport-on-Severn and Kidderminster,³⁵² as well as Hagley,³⁵³ Kinver³⁵⁴ and the West Midlands Conurbation. There are good links to the strategic highway network throughout the corridor, although there are some capacity constraints associated with the urban areas of Kidderminster and Stourport. The River Severn is navigable up to Stourport-on-Severn, and the Staffordshire and Worcestershire Canal runs through the corridor. One railway line runs through the corridor, although opportunities to connect to it may be limited.

348 Information about the Worcestershire Biodiversity Action Plans and Biodiversity Delivery Areas is available at <http://www.worcestershire.gov.uk/biodiversity>.

349 Worcestershire County Council, *Biodiversity and mineral sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, available at www.worcestershire.gov.uk/mineralsbackground.

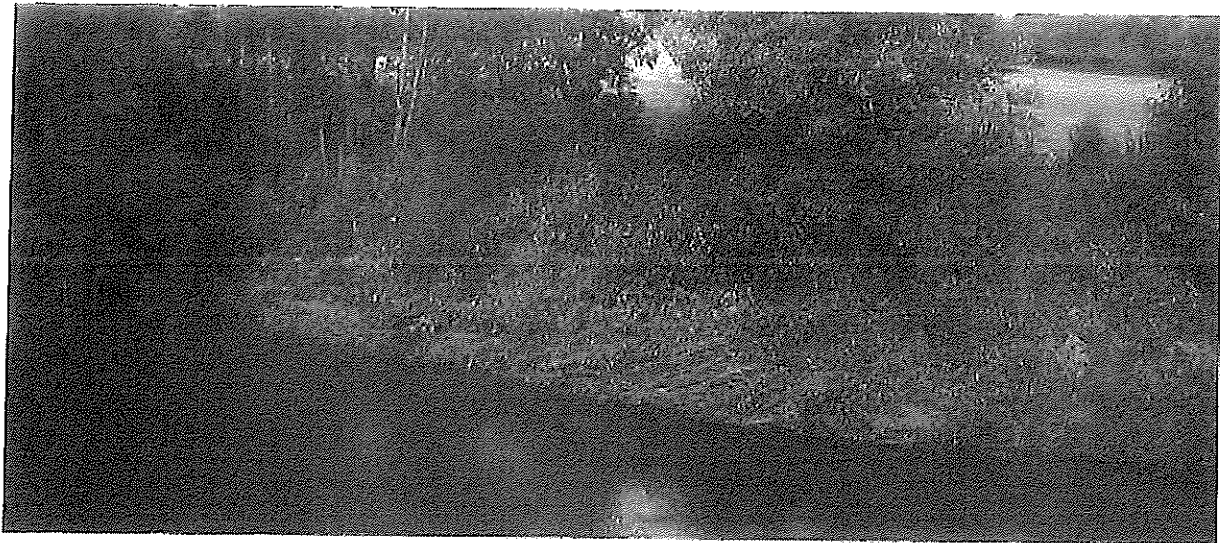
350 More information about the Abberley and Malvern Hills Geopark is available at <http://geopark.org.uk/>

351 Additional development planned for Wyre Forest District and Birmingham and the Black Country will put increased pressure on the existing sub-regional scale semi-natural green space. This is concerning for those assets that are already at capacity, such as the Wyre Forest and Kingsford Park. Whilst there is potential for some of the existing assets to absorb some of the additional visitor pressure, ensuring alternative provision of sub-regional scale accessible natural greenspace for the populations of Birmingham and the Black Country will be key to safeguarding the district's sub-regional assets. As such, an opportunity area for an extension to the Wyre Forest has been identified in the Worcestershire Green Infrastructure Strategy. This is a broad area lying just beyond the north-western boundary of the corridor.

352 As proposed in the *Wyre Forest Core Strategy 2006-26*.

353 As proposed in the *Bromsgrove District Plan 2011-2030*.

354 As proposed in the *South Staffordshire Council Core Strategy (Local Plan) Development Plan Document* (adapted December 2012).



Riverside Meadows landscape type

- 4.181 The majority of the North West Worcestershire Strategic Corridor is within the Green Belt. 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.³⁵⁵ Minerals development also has the potential to enhance the beneficial use of the Green Belt³⁵⁶ through providing enhanced public access and recreation opportunities, enhancing landscapes, visual amenity and biodiversity, and improving damaged and derelict land.
- 4.182 The North West Worcestershire Strategic Corridor contains 3.5%³⁵⁷ of the county's terrace and glacial sand and gravel resources, 63%³⁵⁸ of the county's solid sand resources (including 65.7%³⁵⁹ of the Wildmoor Sandstone Formation which may contain silica sand resources) and four³⁶⁰ historic building stone sites. Sand and gravel has been worked³⁶¹ in the North West Worcestershire Strategic Corridor in the past, largely for the terrace

and glacial resources rather than solid sands. However, due to the extensive nature of the resources, working in this corridor is most likely to be for the relatively deep solid sands, which average 111.8 metres in depth in this corridor. Although in some cases it may be possible to work these resources to a significant depth and to restore land to previous levels through the importation of materials, it is unlikely that it will be possible to work these resources to their full depth. The depth of working is likely to be limited by a combination of the availability of suitable materials in the area, the regulatory regime relating to landfilling, the need to ensure that worked land is reclaimed at the earliest opportunity and the need to provide high-quality restoration.³⁶² It is therefore likely that sites in this corridor may not be worked to a significant depth, or that sites will need to be sensitively designed so that they are worked and restored to include some areas of lower land rather than restoring the whole site to previous levels.

355 See policy MLP 27 (Green Belt) and Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, section 13.

356 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 145 states that "Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land".

357 By area, based on the key and significant resources identified in Worcestershire County Council (2020) *Analysis of Mineral Resources*, available at www.worcestershire.gov.uk/mineralsbackground. The *Analysis of Mineral Resources* takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018).

358 By area, based on the key and significant resources identified in Worcestershire County Council (2020) *Analysis of Mineral Resources*, available at www.worcestershire.gov.uk/mineralsbackground. The *Analysis of Mineral Resources* takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018).

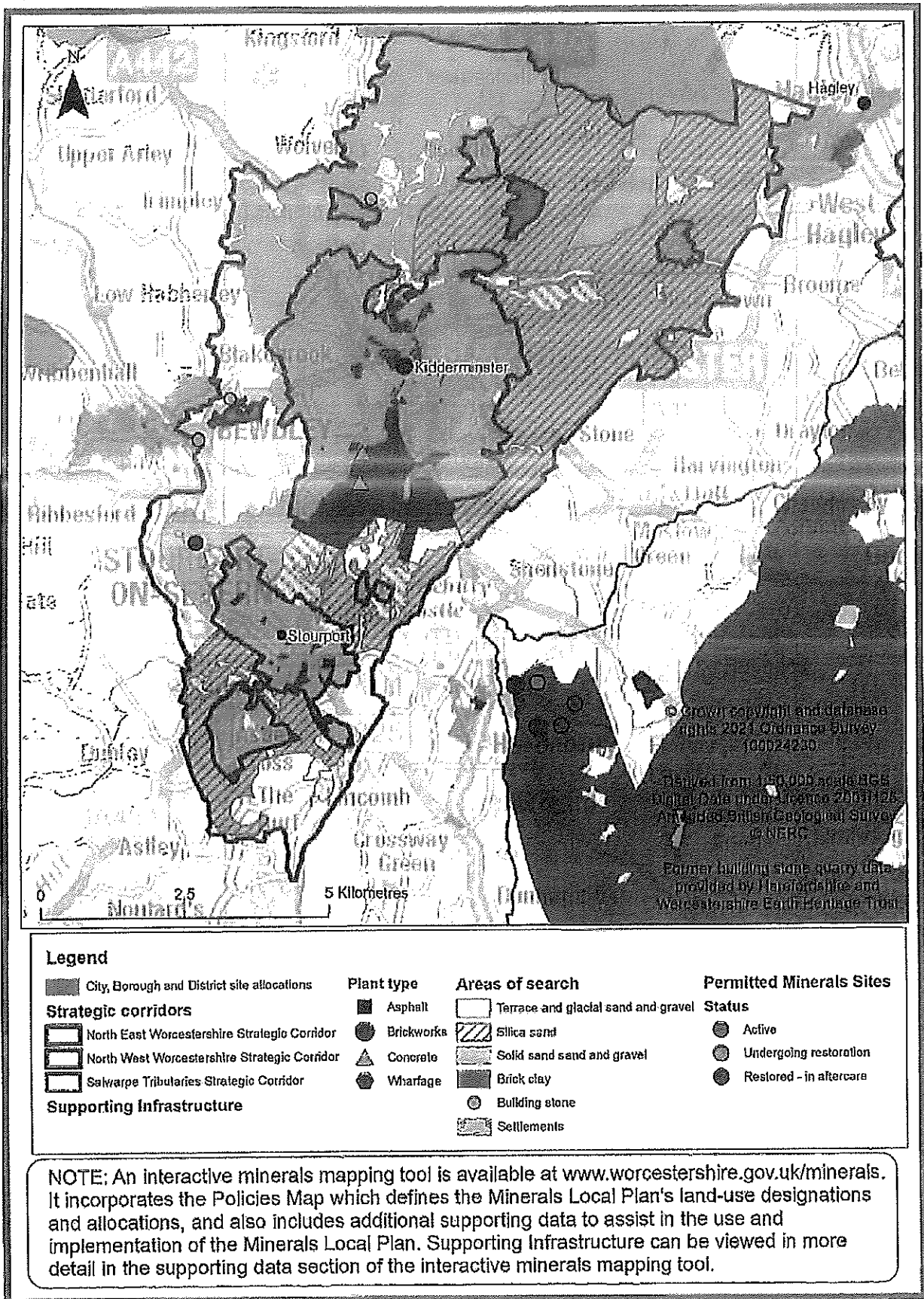
359 By area, based on the Wildmoor Sandstone Formation resource after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

360 Based on the remaining historic building stone sites identified by Herefordshire and Worcestershire Earth Heritage Trust's project "A Thousand Years of Building with Stone" (<http://www.buildingstones.org.uk/>) after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

361 Sand and gravel has previously been worked at Asley Burf Quarry, Lick Hill Quarry, Brant Farm Quarry, Blackstone Quarry and Wolverley Quarry. Moulding sand has also been worked at Stourhill Quarry. These can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

362 See policy MLP 26 (Efficient Use of Resources).

Figure 4.5. North West Worcestershire Strategic Corridor



Policy MLP 11: North West Worcestershire Strategic Corridor

Contributing to:

Objectives MO2, MO3, MO4, MO5

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.

A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the development will, where practicable, optimise the contribution the site will make to delivery of the following green infrastructure priorities:

- a) conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines;
- b) slow the flow of water in upper reaches and increase flood storage and floodplain connectivity in lower parts of the catchment;
- c) create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area;
- d) in the Riverside Meadows, conserve and restore permanent pasture, incorporating wetland habitats such as fen and marsh, wet grassland, reedbed and lowland meadows alongside pastoral land use;
- e) in the Sandstone Estate lands, conserve, enhance and create lowland heathland, acid grassland and scrub.

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.

Where the proposal would make very limited or no contribution to the delivery of these priorities as a whole, this will only be considered appropriate where the economic, social and/or environmental benefits of the proposed development outweigh the benefits of delivering the corridor priorities.

Reasoned justification

4.183 Policy MLP 11 sets the priorities for the delivery of multifunctional green infrastructure in the North West Worcestershire Strategic Corridor. The balance of priorities in this strategic corridor is intended to reduce habitat fragmentation and integrate features that will slow the flow of water in the upper reaches of the catchment or increase flood storage and floodplain connectivity in lower parts of the catchment, alongside conserving and enhancing pasture or lowland heathland where these are important to the local economy or the character of the area, or alongside semi-natural green spaces where they enhance existing recreation networks or provide an alternative visitor destination. The priorities have the potential to contribute to multiple green infrastructure components, including improving recreation provision for local communities and delivering social and

economic benefits through flood betterment, as well as providing climate change adaptation and mitigation.

4.184 The corridor priorities can be integrated and delivered alongside each other. Proposals should, wherever possible, seek to contribute to all of the priorities, although the ability to do so will depend on the site-specific circumstance and, in some cases, it may not be possible or desirable to deliver all priorities within the boundaries of a single site when the size of the site or other local factors are taken into account. It may be that only some of the priorities are deliverable, due to the need to balance other considerations, including those set out in policy MLP 26 (Efficient Use of Natural Resources). The ability of an individual development to deliver only a single priority is likely to be exceptional, as the priorities have been carefully designed to be complementary to the local landscape, agricultural uses, geology and other

green infrastructure components. Significant deviation from the priorities may be justified where there are site-specific opportunities to deliver significant economic, social and/or environmental benefits, however opportunities to deliver the priorities as part of, or alongside, any final after-use of the site should be fully considered. Applicants are encouraged to explore the appropriate balance through pre-application discussion with the Mineral Planning Authority and relevant stakeholders.

- 4.185 The technical assessment required by policy MLP 11 will be expected to set out the considerations which have led to the proposed design of the site and the working, restoration and aftercare schemes, taking account of issues and opportunities identified through the consideration of policy MLP 7 (Green Infrastructure) and policies MLP 26 to MLP 40 (Development Management). The assessment should clearly specify how the proposed development will contribute to the green infrastructure priorities at each stage of the site's life, and why the proposed balance of priorities is considered to optimise the opportunities for delivering the priorities in that location. Where there is strong evidence to demonstrate that focusing on fewer priorities would deliver greater overall benefits than trying to deliver against all of the priorities for the corridor, this will be supported.

Conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines

- 4.186 Tree cover along watercourses and streams, and the restoration of characteristic hedgerow patterns³⁶³ will contribute to the structure and character of the landscape, the local distinctiveness of the area and the legibility of historic enclosure patterns in the landscape, and could enhance the setting of heritage assets. Incorporating trees along watercourses can also help to slow overland flows, increase infiltration and interception of rain and slow the velocity of water entering rivers. Trees and hedgerows can link and enhance habitats to provide an ecological network of connected habitats contributing to species resilience.

- 4.187 Each of the component landscape types in the North West Worcestershire Strategic Corridor has its own characteristic hedgerow and tree cover patterns, and development proposals will

be expected to respect these:

- In the Sandstone Estatelands landscape type, there is an ordered pattern of large, arable fields, straight roads and estate plantations. Fields are typically defined by straight thorn hedges. There is a planned woodland character, with discrete blocks of estate plantations and groups of trees, as well as trees along watercourses. Tree cover in this landscape type provides a framework to views rather than producing a sense of enclosure and blocking them. Parkland features and associated ornamental planting can also contribute to the diversity of these landscapes. The conservation, enhancement and restoration of primary hedgerows and the development of a cohesive woodland structure, with woodland shape reflecting the pronounced regular landscape pattern, would considerably help to retain a sense of unity and scale to this landscape type. The principal component species in this landscape are English elm, hawthorn, blackthorn and damson, with holly also found locally.
- In the Riverside Meadows landscape type, the large- to medium-sized fields are defined by ditch and hedge boundaries, and linear tree belts along ditches, watercourses and in hedgerows are key characteristics of this landscape type, rather than woodland. The conservation and enhancement of hedgelines and tree cover along watercourses should contribute to the secluded pastoral landscape. Returning land to pasture rather than arable uses could help to minimise fragmentation of hedgerow structure by restoring their functionality. Typical species in this landscape type are alder and willow.

- 4.188 Tree cover and hedgerows should be conserved, enhanced and restored across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

Slow the flow of water in upper reaches and increase flood storage and floodplain connectivity in lower parts of the catchment

- 4.189 The control and attenuation of run-off in the upper parts of the catchment, and flood storage and floodplain connectivity in the lower parts of the catchment will have the potential to

363 The primary hedgerow network consists of the hedgerows along roads, farm and parish boundaries, and the secondary hedgerow network is provided by the internal field boundaries.

reduce flood risk by increasing storage volumes and encouraging overland flows in areas located away from the source, as well as slowing flows, reducing peak levels, and increasing the time lag between rainfall and peak flows in areas closest to the source.³⁶⁴ This will also have the potential to improve water quality and riverine habitats, provide the conditions to enable natural succession to a diversity of rich wetland habitats including fen, wet grassland, wet woodland or rare mire and bog communities, and could help to reduce the economic and social impacts of flooding.

4.190 Measures to help slow the flow of water or increase flood storage and floodplain connectivity which are likely to be appropriate to the topography and hydrology of the North West Worcestershire Strategic Corridor include:³⁶⁵

- using appropriate planting such as hedgerows, trees along watercourses, or woodland to slow overland flows, increase infiltration and interception of rain, and slow the velocity of water entering rivers;
- securely installing woody debris to assist the transfer of water from the river to the floodplain to increase floodplain storage volumes, slow down flows within the channel, or hold water back in the upper reaches of the catchment, attenuating flood risk downstream;
- diverting water from the river network to create temporary storage in ponds, washlands or reconnected floodplain, with a controlled outflow to attenuate flood risk downstream;
- incorporating two-stage channels on smaller watercourses where water levels can vary drastically between low flows and peak flows to increase velocity and depth during low flows whilst increasing in-channel capacity and reducing velocity during peak flows;
- incorporating features to manage local flow pathways by catching and storing run-off and sediments.

4.191 In some cases, a stand-off zone may be required between the mineral working and any watercourses, but in areas where it is demonstrated to be safe and appropriate to do

so, there may be opportunities for banks to be worked. This could provide opportunities to maximise resource efficiency, create a more natural river profile, link to wetland habitats, restore links to natural floodplains and create braided channels and in-channel features.

4.192 Consideration should be given to slowing the flow of water or increasing flood storage and floodplain connectivity, depending on the location of the site within the catchment, throughout all phases of the site's life. Consideration of these issues is expected to be integral to the design and layout of the site and any restoration proposals.

Create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area

4.193 Creating accessible semi-natural green space will increase opportunities for informal access and recreation, contributing to the health and well-being of local communities. It also offers opportunities to help people to interpret features and characteristics in the landscape and understand how they interact. This can help to strengthen sense of place through increased understanding of the geodiversity, heritage and character of the area, and could help to enhance the beneficial use of the Green Belt.

4.194 In some cases, spaces or routes adjacent to or with views of particular features may be sufficient to increase legibility and understanding of the feature. In other cases, signage or information boards may be appropriate. The southern and western parts of the North West Worcestershire Strategic Corridor are within the Abberley and Malvern Hills Geopark,³⁶⁶ and the retention and exposure of geological features could enhance the locally distinctive character of these areas, scientific and public understanding of the geology of the landscape and enhance the visitor appeal of both the accessible semi-natural green space created and the wider Geopark.

4.195 To be in keeping with the landscape character of the North West Worcestershire Strategic Corridor, accessible semi-natural green spaces or informal recreation sites should integrate

364 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

365 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

366 More information about the Abberley and Malvern Hills Geopark is available at <http://geopark.org.uk/>

characteristic hedgerow, tree cover and field patterns, and should incorporate heathland and/or wetland features. The topography and landform of the site should be considered in order to create an enjoyable and distinctive visitor experience, taking account of the long-term management requirements of the site.

4.196 There is an identified need for a strategic or sub-regional scale recreation asset of at least 100ha in the vicinity of the North West Worcestershire Strategic Corridor.³⁶⁷ The inclusion of accessible semi-natural green space at a number of mineral developments could help to facilitate the provision of a strategic or sub-regional scale asset, or there may be opportunities for it to be provided by a single large site.

4.197 Consideration should be given to the phasing of working and restoration in order to allow safe access to semi-natural green space to be delivered as early as possible in the site's life, and proposals should give full consideration to whether the site could contribute to the creation of a strategic or sub-regional scale recreation asset. Any associated built development, such as to provide visitor facilities, is likely to require separate planning permission from the relevant Local Planning Authority.

In the Riverside Meadows, conserve and restore permanent pasture, incorporating wetland features such as fen and marsh, wet grassland, reedbed and lowland meadows alongside pastoral land use

4.198 Permanent pasture is an important characteristic of the Riverside Meadows landscape type, but it is under pressure from increasing arable land uses. Conserving and restoring areas of permanent pasture in this landscape type will not only contribute to maintaining and enhancing landscape character and sense of place, but will protect these habitats to provide an ecological network of connected habitats contributing to species resilience, and could also protect and enhance the setting of heritage assets. Returning land to pasture rather than arable uses could help to minimise any further fragmentation of hedgerow structure by restoring their functionality.

4.199 Incorporating wetland features will aid natural flood management, flood storage and floodplain connectivity, as well as improving water quality.

Floodplain and riverside vegetation can help to slow overland flows, increase infiltration and interception of rain and slow the velocity of water entering rivers, with the potential to reduce flood risk by increasing storage volumes and encouraging overland flows in less vulnerable floodplain areas. It can deliver biodiversity gains and Biodiversity Action Plan priorities, and will contribute to climate change resilience. It can also enhance the local landscape character and in some cases reflect historic land uses and land management techniques. The creation of wetland habitats on individual sites will largely be dependent on the local hydrology and any seasonal changes.

4.200 Wet pastures and meadows would contribute positively to the character of the Riverside Meadows landscape type and proposals should incorporate wide, wet field margins with reedbed, fen, marsh, ponds, pools and scrapes which would provide valuable habitats and natural water storage, rather than open water. However, if open waterbodies are proposed, they should be designed to have serpentine and sinuous edges with significant shallow areas as broad drawdown zones will encourage marginal habitats including fen, marsh and reedbed to establish. The design of wetland habitats should consider the landscape character, retaining the local scale and pattern of enclosure, and opportunities to enhance the landscape and biodiversity benefits of the ditches and watercourses. Permanent pasture in the North West Worcestershire Strategic corridor may also offer opportunities to deliver acid grassland habitats where there are areas of appropriate soils and geology.

4.201 Wetland features should be delivered during working phases as well as on the restored site. The site design, levels and phasing of workings should optimise opportunities for these features and habitats. *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*³⁶⁸ provides useful information about the types of habitats that might be appropriate and how these can be created and managed. The Worcestershire Habitat Inventory³⁶⁹ should be referred to when considering the opportunities to link and extend existing habitats.

367 Sites of over 100ha are classified as strategic or county level recreational sites, and sites of over 500ha are classified as sub-regional scale recreational sites. See Worcestershire Green Infrastructure Partnership's *Green Infrastructure Strategy 2013 - 2018* and *Green Infrastructure Framework Document 3*, available at www.worcestershire.gov.uk/GI.

368 Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites* available at www.worcestershire.gov.uk/mineralsbackground.

369 See Worcestershire Habitat Inventory information at http://www.worcestershire.gov.uk/info/20014/planning/1029/worcestershire_habitat_inventory.

4.202 Opportunities to incorporate appropriate grazing practices and haymaking into the management of sites could contribute to the long-term economic viability of the land and deliver outcomes that ensure net biodiversity gain in the long term. However, after-use in these areas need not be restricted to agriculture and other proposals for the long-term management of pasture and wetland habitats will be welcomed.

4.203 The conservation and restoration of permanent pasture, and the incorporation of wetland features, should take place across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

In the Sandstone Estatelands, conserve, enhance and create lowland heathland, acid grassland and scrub

4.204 Heathland and acid grassland habitats are scarce in Worcestershire. These habitats are well suited to the underlying sandstone geology of the North West Worcestershire Strategic Corridor and their concentration in this area is significant on a county scale. However, these habitats are fragmented. Conserving, enhancing and restoring lowland heathland, acid grassland and scrub will not only contribute to protecting and expanding these habitats to provide an ecological network of connected habitats contributing to species resilience, but will also help to maintain and enhance landscape character and sense of place, and could protect and enhance the setting of heritage assets.

4.205 Conserving, enhancing and creating these high-value Biodiversity Action Plan priority habitats is particularly important where it would contribute to the wider network by extending existing heathland and acid grassland habitats or providing habitat corridors or stepping stones. Exposed sandy soils at mineral sites provide ideal conditions for lowland heathland, scrub and acid grassland habitats, or rare mire and bog communities in damper areas. Heathland and scrub can develop naturally on bunds and mounds and other areas of exposed sandy soils during working phases, giving opportunities to deliver biodiversity benefits throughout the life of the site. Larger areas of heathland, scrub and acid grassland should respect locally

characteristic field patterns, and where the restoration of the site is to arable land uses, low-nutrient soils should be retained to create heathland and acid grassland habitats in marginal areas such as along field boundaries, conservation headlands or set-aside areas.

4.206 *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*³⁷⁰ provides useful information about the types of habitats that might be appropriate and how these can be created and managed. The Worcestershire Habitat Inventory³⁷¹ should be referred to when considering the opportunities to link and extend existing habitats.

4.207 The conservation, enhancement and creation of lowland heathland, scrub and acid grassland habitats should take place across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.



Acid grassland habitat

370 Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites* available at www.worcestershire.gov.uk/minerals/background.

371 See *Worcestershire Habitat Inventory* information at http://www.worcestershire.gov.uk/info/20014/planning/1029/worcestershire_habitat_inventory.



Principal Timbered Farmlands landscape type (Bredicot)

Salwarpe Tributaries Strategic Corridor

Characteristics of the corridor

4.208 The Salwarpe Tributaries Strategic Corridor is identified in the Key Diagram (Figure 4.1) and shown in detail in Figure 4.6. Salwarpe Tributaries Strategic Corridor. It covers 12,310 hectares of land, and broadly covers the area between Bromsgrove, Hanbury, Droitwich Spa, Hartlebury and Belbroughton.

4.209 The landscape character of the Salwarpe Tributaries Strategic Corridor is made up of the rolling lowland Principal Timbered Farmlands landscape type, which has occasional steep sided hills and low escarpments and a small-scale, wooded, agricultural appearance. It is characterised by filtered views through densely scattered hedgerow trees, and has a mosaic of irregularly shaped woodlands, agricultural land cleared directly from woodland on a piecemeal basis, and land enclosed from former localised areas of open fields.³⁷²

4.210 Traditionally a landscape of mixed farming, with 18.6% of the corridor classified as best and most versatile agricultural land, a gradual increase in arable land uses is evident locally, but this is leading to the demise of the hedgerow structure which is critical to the character of the landscape.

4.211 There is a relatively even spread of flood risk across the corridor, with 39% of its total area inside catchments with a low risk of flooding, 33% inside high risk and 28% inside medium risk catchments.³⁷³ The corridor is mainly affected by fluvial flooding from the river Salwarpe and Spadesbourne Brook. However, surface water flooding has historically affected multiple locations within the corridor, including Bournheath, Bromsgrove, Catshill and Stoke Prior, and some ground water flooding has affected Stourport-on-Severn, Bromsgrove and Stoke Prior. The corridor covers both upper and lower parts of the catchments, with a varied terrain which exhibits different hydrological characteristics, meaning that flood betterment opportunities will include control and attenuation of run-off in the upper parts of a catchment and flood storage and floodplain connectivity in the lower parts of a catchment. The majority of the watercourses in the corridor are not currently meeting Water Framework Directive targets for "good ecological status".³⁷⁴

372 See Worcestershire's *Landscape Character Assessment* maps and guidance at www.worcestershire.gov.uk/lca.

373 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

374 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.



Alluvial fenlands

4.212 The Salwarpe Tributaries Strategic Corridor has some potential to deliver biodiversity action plan targets for both species and habitats, with the Forest of Feckenham Biodiversity Delivery Area³⁷⁵ covering the south-eastern side of the corridor. Small parts of the corridor consist of the "alluvial fenlands" ecological zone along the River Salwarpe, Elmbridge Brook and Hadley Brook in the south of the corridor, where mineral working could provide the conditions to enable natural succession to a diversity of rich wetland habitats including fen, wet grassland and wet woodland. There is also potential for the creation of scarce habitats of high conservation value including heathland, acid grassland and scrub, or rare mire and bog communities in damper areas, where the "forest sandstones" ecological zone occurs around the western fringes of the corridor.³⁷⁶ Habitats in the Salwarpe Tributaries Strategic Corridor have the potential to support wintering and passage bird populations of the Severn Estuary SPA and Ramsar site, for example by providing food and shelter at times of flooding or other extreme weather when normal roosting and feeding sites are unavailable. The Salwarpe Tributaries Strategic Corridor also has potential to support migratory fish species of the Severn Estuary SAC and Ramsar site.

4.213 Along the River Salwarpe, archaeological potential is typified by intensive occupation and land use from the prehistoric periods through to the post-medieval period. Areas of Palaeolithic potential are associated with parts of the Elmley Brook and Salwarpe corridors. Historic Landscape Character reflects a dispersed early medieval settlement pattern, possibly founded on earlier Roman estates. The field pattern has been affected by reorganisation and amalgamation, but is, nonetheless, diverse and multi-period in origin, derived from mixed historic land use: medieval and later mixed farming and the piecemeal enclosure of former woodland and unenclosed lowland heath. To the south-east of the corridor, the Historic Landscape Character is a diverse mix of post-medieval piecemeal fields and regular planned enclosure of former medieval open-field cultivation.

4.214 There is a relatively dense network of Public Rights of Way within the Salwarpe Tributaries Strategic Corridor, although there are no long-distance recreation routes. There is an identified need for a strategic recreation asset in the vicinity of the Salwarpe Tributaries Strategic Corridor to relieve pressure on the Malvern Hills and other sub-regional assets and to serve planned housing growth around Worcester and Droitwich Spa.³⁷⁷

375 Information about the Worcestershire Biodiversity Action Plans and Biodiversity Delivery Areas is available at <http://www.worcestershire.gov.uk/biodiversity>.

376 Worcestershire County Council, *Biodiversity and mineral sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, available at www.worcestershire.gov.uk/mineralsbackground.

377 The need for a strategic recreation asset is identified in the adopted *South Worcestershire Development Plan 2006-30* (<http://www.swdevelopmentplan.org/>) and the *Worcestershire Green Infrastructure Framework* (Document 3, www.worcestershire.gov.uk/GI). This is based on the access to, and capacity of, existing recreation assets and the impacts of planned housing growth. The *South Worcestershire Development Plan* identifies an area of search for a strategic recreation asset, known as "Worcester/ Droitwich Park" (based on the canal ring). However the provision of strategic recreation assets is not necessarily limited to the canals.

- 4.215 There are very few sites designated for their geological interest within the Salwarpe Tributaries Strategic Corridor. are located within the corridor, and the corridor contains 78.4%³⁸⁰ of the Droitwich Halite Member rock salt resources in the county.
- 4.216 Mineral development in the Salwarpe Tributaries Strategic Corridor would be well located to serve planned growth in the Worcester area and Droitwich Spa,³⁷⁸ Bromsgrove,³⁷⁹ Redditch,³⁸⁰ Kidderminster and Stourport-on-Severn.³⁸¹ There are good links to the strategic highway network throughout the corridor, although there may be capacity constraints on some routes. The Worcester and Birmingham Canal runs through the eastern edge of the corridor, and the Droitwich Canal runs across the south of the corridor, connecting to the River Severn just to the south of the corridor and to the Worcester and Birmingham Canal at Hanbury. Two rail lines cross the corridor, although opportunities to connect to them may be limited.
- 4.217 The majority of the Salwarpe Tributaries Strategic Corridor is within the Green Belt. 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.³⁸² Minerals development also has the potential to enhance the beneficial use of the Green Belt³⁸³ through providing enhanced public access and recreation opportunities, enhancing landscapes, visual amenity and biodiversity, and improving damaged and derelict land.
- 4.218 The Salwarpe Tributaries Strategic Corridor contains 16.8%³⁸⁴ of the county's Mercia Mudstone clay resource and 0.9%³⁸⁵ of the county's terrace and glacial sand and gravel resources. Brick clay is currently worked at two sites³⁸⁶ in the Salwarpe Tributaries Strategic Corridor. Nine³⁸⁷ historic building stone sites
- 4.219 Working in this corridor is therefore most likely to be for brick clay from Mercia Mudstone. In some cases it may be possible to restore land to previous levels through the importation of materials, however this is likely to be limited by both the availability of suitable materials in the area, the current regulatory regime, the need to ensure that worked land is reclaimed at the earliest opportunity and the need to provide high-quality restoration.³⁸⁹ It is therefore likely that parts of a site might be restored to previous levels, but some areas of lower land may be necessary.
- 4.220 The nature of the mineral deposits and the good level of access to the strategic transport network may mean that relatively large sites with their own processing plant are viable in this corridor, although centralised processing plant sites which enable access to "satellite" sites to work smaller mineral deposits may also be viable and could provide an efficient use of land and economic benefits through reducing the investment required in plant at individual working sites.

378 As proposed in the *South Worcestershire Development Plan 2004-2030*.

379 As proposed in the *Bromsgrove District Plan 2011-2030*.

380 As proposed in the *Borough of Redditch Local Plan No.4 2011-2030*.

381 As proposed in the *Wyre Forest Core Strategy 2004-26*.

382 See policy MLP 27 (Green Belt) and Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, section 13.

383 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 145 states that "Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land".

384 By area, based on the Mercia Mudstone resource after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

385 By area, based on the key and significant resources identified in Worcestershire County Council (2021) *Analysis of Mineral Resources*, available at www.worcestershire.gov.uk/mineralsbackground. The *Analysis of Mineral Resources* takes account of viability, environmental and amenity screening criteria. For further information see Worcestershire County Council's background document *Location of development: screening and site selection methodology* (August 2018).

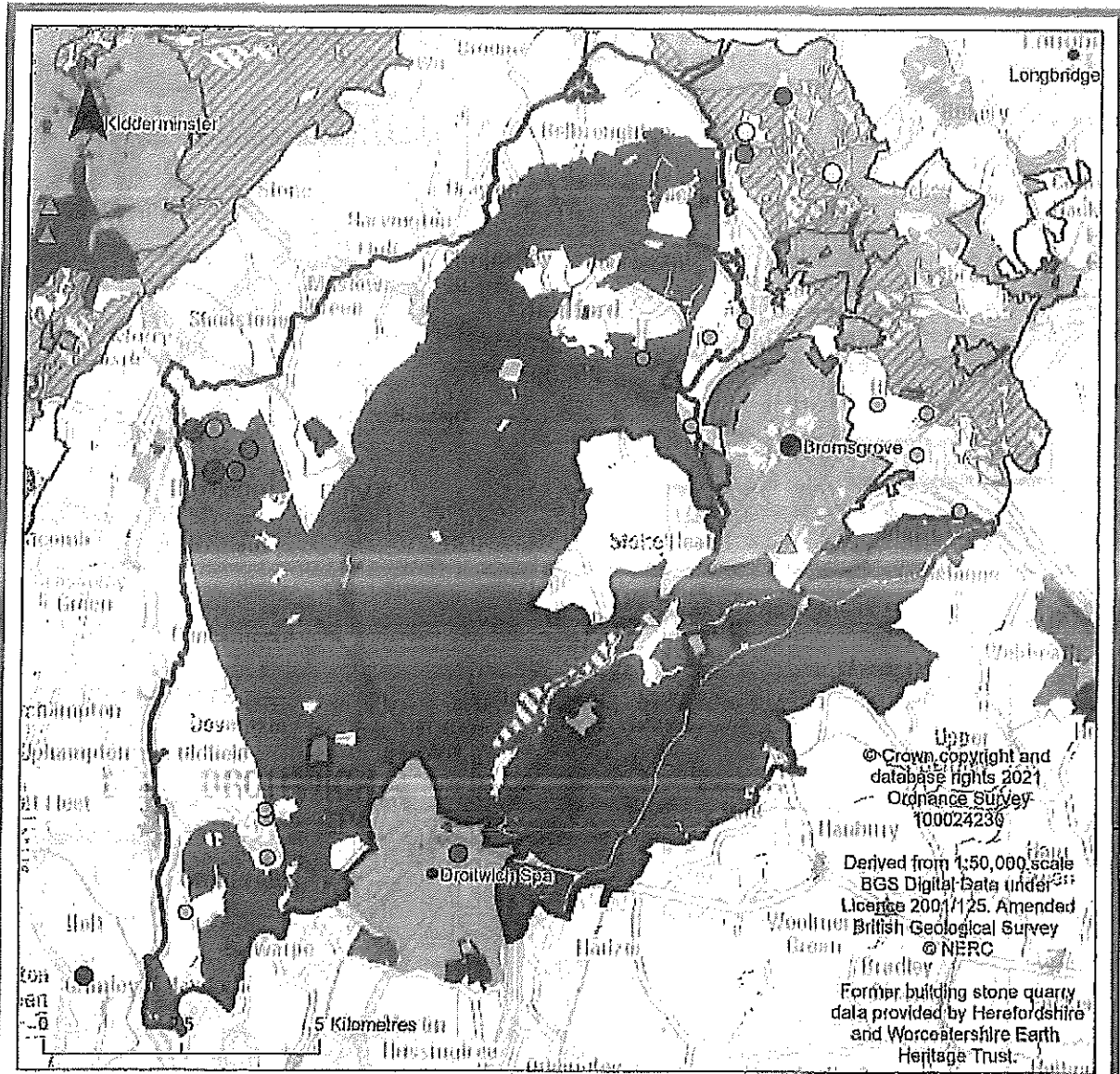
386 New House Farm Quarry and Waresley Quarry. These can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

387 Based on the remaining historic building stone sites identified by Herefordshire and Worcestershire Earth Heritage Trust's project "A Thousand Years of Building with Stone" (<http://www.buildingstones.org.uk/>) after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

388 Based on the remaining Droitwich Halite Member resources after viability, environmental and amenity screening criteria were applied. For further information see Worcestershire County Council (August 2018) *Location of development: screening and site selection methodology*.

389 See policy MLP 26 (Efficient Use of Resources).

Figure 4.6. Salwarpe Tributaries Strategic Corridor



Legend

Settlements	Strategic corridors	Brick clay
Supporting Infrastructure	North East Worcestershire Strategic Corridor	Building stone
Plant type	North West Worcestershire Strategic Corridor	Permitted Minerals Sites (Spring 2019)
Brickworks	Salwarpe Tributaries Strategic Corridor	Status
Concrete	Areas of search	Active
City, Borough and District site allocations	Terrace and glacial sand and gravel	Inactive
	Silica sand	Undergoing restoration
	Solid sand sand and gravel	Restored - in aftercare

NOTE: An interactive minerals mapping tool is available at www.worcestershire.gov.uk/minerals. It incorporates the Policies Map which defines the Minerals Local Plan's land-use designations and allocations, and also includes additional supporting data to assist in the use and implementation of the Minerals Local Plan. Supporting Infrastructure can be viewed in more detail in the supporting data section of the interactive minerals mapping tool.

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Policy MLP 12: Salwarpe Tributaries Strategic Corridor

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted for mineral development within the Salwarpe Tributaries Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks.

A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the development will, where practicable, optimise the contribution the site will make to delivery of the following green infrastructure priorities:

- a) conserve, enhance and restore characteristic hedgerow patterns and structure;
- b) protect, restore and link relic ancient woodlands and conserve and restore tree cover along watercourses and streamlines;
- c) slow the flow of water in upper reaches and increase flood storage and floodplain connectivity in lower parts of the catchment;
- d) create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area.

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.

Where the proposal would make very limited or no contribution to the delivery of these priorities as a whole, this will only be considered appropriate where the economic, social and/or environmental benefits of the proposed development outweigh the benefits of delivering the corridor priorities.

Reasoned justification

- 4.221 Policy MLP 12 sets the priorities for the delivery of multifunctional green infrastructure in the Salwarpe Tributaries Strategic Corridor. The balance of priorities in this strategic corridor is intended to improve floodplain connectivity, link relic ancient woodlands and integrate features that will slow the flow of water in the upper reaches of the catchment, alongside creating semi-natural green spaces where they enhance existing recreation networks or provide an alternative visitor destination. The priorities have the potential to contribute to multiple green infrastructure components, including improving recreation provision for local communities and delivering social and economic benefits through flood betterment, as well as providing climate change adaptation and mitigation.
- 4.222 The corridor priorities can be integrated and delivered alongside each other. Proposals should, wherever possible, seek to contribute to all of the priorities, although the ability to do

so will depend on the site-specific circumstance and, in some cases, it may not be possible or desirable to deliver all priorities within the boundaries of a single site when the size of the site or other local factors are taken into account. It may be that only some of the priorities are deliverable, due to the need to balance other considerations, including those set out in policy MLP 26 (Efficient Use of Natural Resources). The ability of an individual development to deliver only a single priority is likely to be exceptional, as the priorities have been carefully designed to be complementary to the local landscape, agricultural uses, geology and other green infrastructure components. Significant deviation from the priorities may be justified where there are site-specific opportunities to deliver significant economic, social and/or environmental benefits, however opportunities to deliver the priorities as part of, or alongside, any final after-use of the site should be fully considered. Applicants are encouraged to explore the appropriate balance through pre-application discussion with the Mineral Planning Authority and relevant stakeholders.

4.223 The technical assessment required by policy MLP 12 will be expected to set out the considerations which have led to the proposed design of the site and the working, restoration and aftercare schemes, taking account of issues and opportunities identified through the consideration of policy MLP 7 (Green Infrastructure) and policies MLP 26 to MLP 40 (Development Management). The assessment should clearly specify how the proposed development will contribute to the green infrastructure priorities at each stage of the site's life, and why the proposed balance of priorities is considered to optimise the opportunities for delivering the priorities in that location. Where there is strong evidence to demonstrate that focusing on fewer priorities would deliver greater overall benefits than trying to deliver against all of the priorities for the corridor, this will be supported.

Conserve, enhance and restore characteristic hedgerow patterns and structure

4.224 The pattern and structure of hedgerows is a key characteristic of the Principal Timbered Farmlands landscape type, providing the basic fabric for the hedgerow tree populations and emphasising scale and enclosure. Conserving, enhancing and restoring hedgerows to preserve the organic pattern of enclosure and rebalance the age distribution of hedgerow oaks will contribute to maintaining and enhancing landscape character and sense of place. It will also increase the legibility of historic enclosure patterns in the landscape, enhance the setting of heritage assets, and link and enhance habitats to provide an ecological network of connected habitats contributing to species resilience.

4.225 The hedgerow composition is complex and rich in places where the links to woodland origins are strongest, and the characteristic tree cover creates the filtered views that are distinctive in this landscape. Lines of mature oak are a particular feature of the hedgerows in the Principal Timbered Farmlands. However, the age distribution of hedgerow oak is unbalanced, with the majority classed as mature or veteran. Protecting, maintaining or planting younger hedgerow oaks could help address this imbalance, providing a succession of younger trees to help ensure this landscape feature is retained over time. Hedgerow fruit trees might

also be appropriate in the Forest of Feckenham Biodiversity Delivery Area, with an emphasis on the fruit type and varieties associated with the specific locality of the proposal.

4.226 It is vital for the retention of the character of the Principal Timbered Farmlands landscape type that the organic pattern of enclosure is preserved and that a geometric pattern is not superimposed by sub-dividing or enlarging fields or employing straight fences or hedgelines. Returning land to pasture rather than arable uses could help to minimise any further fragmentation of hedgerow structure by restoring their functionality, as well as potentially having greater benefits for water quality, flood betterment and biodiversity than arable land uses.

4.227 Hedgerows and their characteristic patterns and structure should be conserved, enhanced and restored across all phases of the site's life, and consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

Protect, restore and link relic ancient woodlands and conserve and restore tree cover along watercourses and streamlines

4.228 The presence of tree cover in the form of woodlands and linear, streamside tree cover, as well as hedgerow trees, is a unifying feature of the Principal Timbered Farmlands. The combined presence of these tree cover components creates the underlying sense of scale and enclosure, together with the filtered views that are distinctive in this landscape. The resulting woodland character is essentially that of mixed native broadleaves, with oak the dominant species.

4.229 Protecting, restoring and linking relic ancient woodland in appropriate ways³⁹⁰ will not only contribute to maintaining and enhancing landscape character and sense of place, but will also increase the legibility of historic enclosure patterns in the landscape and link and enhance habitats to provide an ecological network of connected habitats contributing to species resilience. Incorporating woodland and trees along watercourses can also help to slow overland flows, increase infiltration and interception of rain and slow the velocity of water entering rivers.

³⁹⁰ Further guidance about the types of woodland habitats that might be appropriate and how these can be created and managed is available in Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites*, (available at www.worcestershire.gov.uk/minerals) and Worcestershire County Council and Forestry Commission (2010) *Trees and Woodland in Worcestershire: Biodiversity and Landscape Guidelines for their planting and management*. http://www.worcestershire.gov.uk/downloads/file/4790/woodland_guidelines

4.230 The distribution of woodlands in the Salwarpe Tributaries Strategic Corridor is characteristically uneven, but the stream-side tree cover is fragmented in places. Woodlands vary in size from small field corner copses to those of a size exceeding that of the surrounding fields, and wet woodland is often associated with linear strips along smaller streams. The shape of new woodlands should reflect the overall irregular, organic structure of the Principal Timbered Farmlands. However, large-scale planting or linking up existing fragmented woodlands to form large blocks would not be appropriate.

4.231 Consideration should be given to protecting, restoring and linking woodland habitats and conserving and restoring tree cover along watercourses and streamlines throughout all phases of the site's life. Consideration of these features is expected to be integral to the design and layout of the site and any restoration proposals.

Slow the flow of water in upper reaches and increase flood storage and floodplain connectivity in lower parts of the catchment

4.232 The control and attenuation of run-off in the upper parts of the catchment, and flood storage and floodplain connectivity in the lower parts of the catchment will have the potential to reduce flood risk by increasing storage volumes and encouraging overland flows in areas located away from the source, as well as slowing flows, reducing peak levels, and increasing the time lag between rainfall and peak flows in areas closest to the source.³⁹¹ This will also have the potential to improve water quality and riverine habitats, provide the conditions to enable natural succession to a diversity of rich wetland habitats including fen, wet grassland, wet woodland or rare mire and bog communities, and could help to reduce the economic and social impacts of flooding.

4.233 Measures to help slow the flow of water or increase flood storage and floodplain connectivity which are likely to be appropriate to the topography and hydrology of the Salwarpe Tributaries Strategic Corridor include:³⁹²

- creating "leaky" barriers (soil, wood or stone) across a flow path to intercept overland flow and create water storage which will drain slowly;
- incorporating scrapes, swales, wetlands and other sustainable drainage features into the topography of the site to manage local flow pathways by catching and storing run-off and sediments and slowing the water before it reaches the main river;
- damming gullies or field drains to form pools; or
- securely installing woody debris to assist the transfer of water from the river to the floodplain to increase floodplain storage volumes, slow down flows within the channel, or hold water back in the upper reaches of the catchment, attenuating flood risk downstream.

4.234 Consideration should be given to slowing the flow of water or increasing flood storage and floodplain connectivity, depending on the location of the site within the catchment, throughout all phases of the site's life. Consideration of these issues is expected to be integral to the design and layout of the site and any restoration proposals.

391 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

392 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.



Principal Timbered Farmlands landscape type

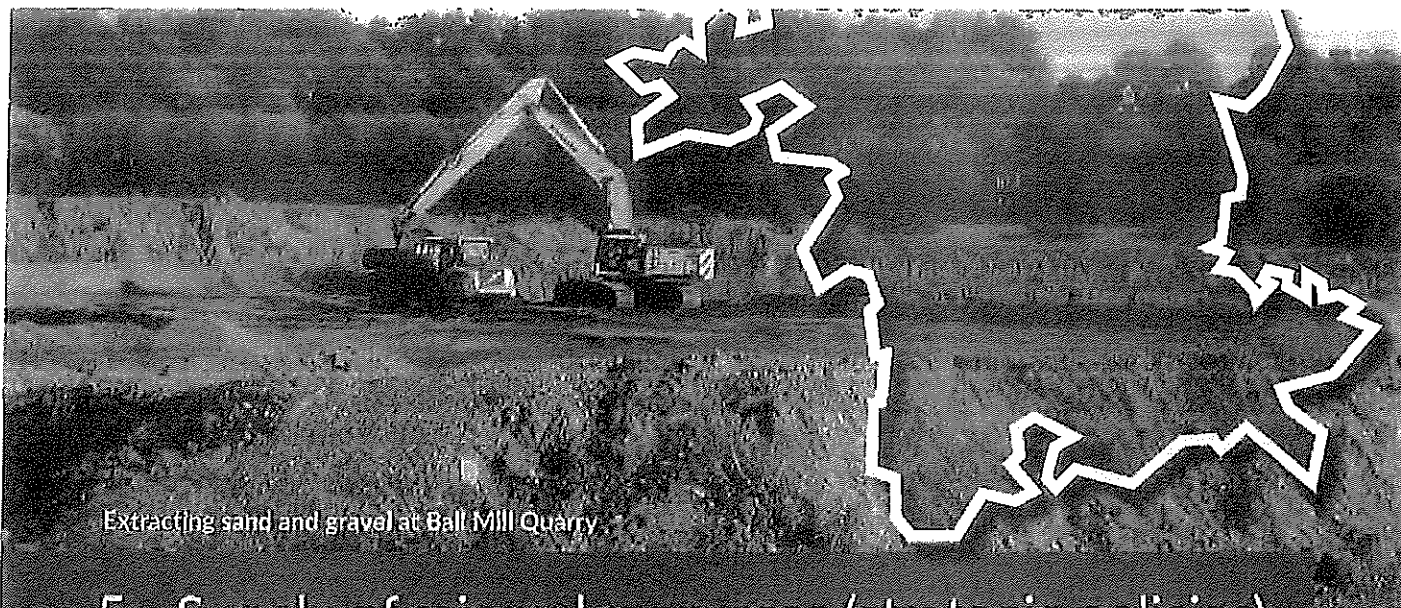
Create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area

- 4.235 Creating accessible semi-natural green space will increase opportunities for informal access and recreation, contributing to the health and well-being of local communities. It also offers opportunities to help people to interpret features and characteristics in the landscape and understand how they interact. This can help to strengthen sense of place through increased understanding of the geodiversity, heritage and character of the area, and could help to enhance the beneficial use of the Green Belt.
- 4.236 In some cases, spaces or routes adjacent to or with views of particular features may be sufficient to increase legibility and understanding of the feature. In other cases, signage or information boards may be appropriate. To be in keeping with the landscape character of the Salwarpe Tributaries Strategic Corridor, accessible semi-natural green spaces or informal recreation sites should integrate woodland and characteristic hedgerow, tree cover and field patterns. The topography and

landform of the site should be considered in order to create an enjoyable and distinctive visitor experience, taking account of the long-term management requirements of the site.

- 4.237 There is an identified need for a strategic or sub-regional scale recreation asset of at least 100ha in the vicinity of the Salwarpe Tributaries Strategic Corridor.³⁹³ The inclusion of accessible semi-natural green space at a number of mineral developments could help to facilitate the provision of a strategic or sub-regional scale asset, or there may be opportunities for it to be provided by a single large site.
- 4.238 Consideration should be given to the phasing of working and restoration in order to allow safe access to semi-natural green space to be delivered as early as possible in the site's life, and proposals should give full consideration to whether the site could contribute to the creation of a strategic or sub-regional scale recreation asset. Any associated built development, such as to provide visitor facilities, is likely to require separate planning permission from the relevant Local Planning Authority.

³⁹³ Sites of over 100ha are classified as strategic or county level recreational sites, and sites of over 500ha are classified as sub-regional scale recreational sites. See Worcestershire Green Infrastructure Partnership's *Green Infrastructure Strategy 2013 - 2018* and *Green Infrastructure Framework Document 3*, available at www.worcestershire.gov.uk/GI.



Extracting sand and gravel at Ball Mill Quarry

5. Supply of mineral resources (strategic policies)

Introduction

5.1 Minerals provide the raw materials to support sustainable economic growth and quality of life. It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.³⁹⁶ To ensure that minerals are readily available to meet market demand and to minimise uncertainty and volatility in supply, it is important for the Minerals Local Plan to ensure that:

- there is a sufficient and sustainable stock of reserves at sites with planning permission (for aggregate minerals this is referred to as a "landbank");
- there are enough sites with the capacity to produce, process and sell what is required ("productive capacity"). This can be affected by commercial decisions, changes to plant and machinery and working practices, or natural events;
- there is enough flexibility to ensure that demand can be met even if natural events or commercial decisions limit production at one or more site(s); and
- large landbanks at very few sites do not stifle competition.

5.2 Maintaining a steady and adequate supply of minerals also requires mineral sites, and

facilities and infrastructure which support the extraction, processing and sale of minerals, to be able to operate without being prejudiced by the introduction of sensitive land uses in close proximity. This is considered in Chapter 7.

5.3 The level of supply which is considered to be "adequate" varies for different types of minerals. The National Planning Policy Framework gives a clear direction on the minimum levels of aggregate supply considered to be "adequate", requiring the maintenance of landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock,³⁹⁷ and recognises that long-term investment needs influence the requirements for stocks of permitted reserves of industrial minerals.³⁹⁸ The supply of aggregates and industrial minerals is driven by a wide range of development demands which are reliant on a steady supply of materials to maintain certainty in the economy, whilst the demand for building stone is more likely to be related to a particular project and does not necessarily require a steady amount to be produced annually.

5.4 The baseline Local Aggregate Assessment³⁹⁹ (using data up to 31st December 2017) sets out the data underpinning the Minerals Local Plan with regard to aggregates, with additional information about aggregates, industrial and energy minerals provided in a suite of background documents⁴⁰⁰.

396 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 209.

397 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 213.

398 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 214.

399 Worcestershire County Council (June 2020) *Worcestershire Local Aggregate Assessment (using data covering the period up to 31/12/2017)*, available at www.worcestershire.gov.uk/amr.

400 See background documents on *Crushed Rock In Worcestershire*, *Crushed Rock Supply in Worcestershire - Summary of action undertaken under the duty to cooperate*, *Sand and Gravel in Worcestershire*, *Building Stone in Worcestershire*, *Clay in Worcestershire*, *Salt and Brine in Worcestershire*, *Silica Sand in Worcestershire*, *Coal in Worcestershire*, and *Conventional and Unconventional hydrocarbons (Oil and Gas; excluding coal)*, at www.worcestershire.gov.uk/mineralsbackground, and the *Worcestershire Minerals and Waste Development Framework Authority Monitoring Reports* are available at www.worcestershire.gov.uk/amr.

Contribution of substitute, secondary and recycled materials and mineral waste to overall minerals supply

Policy MLP 13: Contribution of Substitute, Secondary and Recycled Materials and Mineral Waste to Overall Minerals Supply

Contributing to:

Objectives MO1, MO5, MO6

Planning permission will be granted for proposals that enable the supply of minerals from substitute, secondary or recycled materials or mineral waste where they accord with the policies of the Waste Core Strategy.

Where the proposed development involves the management, processing and/or stockpiling of substitute, secondary or recycled materials or mineral waste on an existing or proposed site for working and/or processing primary minerals, it must be clearly demonstrated that this would not have an unacceptable adverse impact on working the site or on the ability to deliver high-quality restoration at the earliest opportunity.

Reasoned justification

- 5.5 Mineral resources are finite and it is important to make the best use of them. The use of substitute, secondary and recycled materials and minerals waste helps to reduce the need for primary minerals and can increase resource efficiency by using materials that might otherwise be discarded as waste. It can also contribute to the local vernacular, particularly where locally distinctive building stone or specific brick types are available from recycled sources. The Waste Core Strategy for Worcestershire promotes the re-use and recycling of materials and contains policies regarding the development of recycling facilities. Policy MLP 13 should be read in conjunction with the Waste Core Strategy.
- 5.6 The use of substitute, secondary and recycled materials and mineral waste is becoming embedded as part of a sustainable minerals market, with more mineral operators seeking to offer a range of sustainable products for sale. Policy MLP 13 encourages and enables this, supporting development which would contribute to the overall sustainable supply of materials and thereby reducing the overall need for the extraction of primary minerals.
- 5.7 Where the proposed development is located on an existing or proposed site for working and/or processing primary minerals, proposals will be expected to demonstrate how the proposal will ensure that the working and restoration of the

site will not be negatively impacted. This should include consideration of practical requirements for working the site and the temporary nature of mineral workings, and ensuring that the ability to deliver high-quality restoration at the earliest opportunity will not be compromised. For sites with existing planning permission, this is likely to require such activities to be aligned to the timescales and restoration scheme of the existing permission.

Aggregate supply

- 5.8 Aggregates are crucial to most forms of built development. They are strategically important and there are significant geographical imbalances across the country between where suitable natural aggregate resources exist and where they are most needed. This is recognised in national policy by the "Managed Aggregate Supply System",⁴⁰¹ which requires Mineral Planning Authorities to make provision for the maintenance of landbanks for aggregate minerals of at least 7 years for sand and gravel and at least 10 years for crushed rock, to participate in the operation of an Aggregate Working Party, and to prepare an annual Local Aggregate Assessment⁴⁰².

401 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals*, paragraph: 060 Reference ID: 27-060-20140306 Revision date: 06 03 2014.

402 Worcestershire's *Local Aggregate Assessments* are available at www.worcestershire.gov.uk/amc.

Sand and gravel

Policy MLP 14: Scale of Sand and Gravel Provision

Contributing to:

Objectives MO1, MO5

A landbank of at least 7 years will be maintained throughout the plan period, and sufficient productive capacity for sand and gravel will be maintained to at least meet the production guideline in the most recent Local Aggregate Assessment to supply a wide range of sand and gravel materials and products.

- a) To indicate the scale of provision required for sand and gravel over the life of the plan:
 - i. The baseline production guideline for sand and gravel (as calculated in the "Worcestershire Local Aggregate Assessment (using data up to December 2017)") is at least 0.572 million tonnes per year.
 - ii. To achieve this level of production annually over the life of the plan (2018-2036) would require a total of 10,868 million tonnes of sand and gravel.
 - iii. A landbank of permitted reserves of at least 7 years at this level would require a total of at least 4,004 million tonnes of sand and gravel.
 - iv. The baseline permitted reserves of sand and gravel at the end of 2017 stood at 3,465 million tonnes, providing a landbank of 6.06 years.
 - v. This means that the scale of provision required over the life of the plan is at least 14.872 million tonnes of sand and gravel.

As the production guideline and levels of permitted reserves will vary over the life of the Minerals Local Plan, the most recent Local Aggregate Assessment must be referred to by applicants and decision-makers.

- b) To achieve this scale of provision, supply of terrace and glacial sand and gravel and solid sands will be delivered from a combination of extant sites and new developments (including extensions to extant sites):
 - i. Permitted reserves at extant sites will provide 3,465 million tonnes of sand and gravel.
 - ii. New sites and alterations or extensions to extant sites will provide at least a further 11,407 million tonnes of sand and gravel:
 - » Proposals for supply from terrace and glacial sand and gravel mineral allocations will be supported in the Avon and Carrant Brook, Lower Severn, North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors (see policy MLP 2).
 - » Proposals for supply from solid sand mineral allocations will be supported in the North East Worcestershire and North West Worcestershire Strategic Corridors (see policy MLP 2).
 - » As the identification of the strategic corridors was informed by the distribution of sand and gravel resources, and they contain extensive areas of search for sand and gravel, proposals for sand and gravel development on windfall sites either within or outside the strategic corridors will only be supported where they meet the tests set out in policy MLP 3 or policy MLP 4.

Reasoned justification

- 5.9 The Minerals Local Plan seeks to ensure that there is a steady and adequate supply of sand and gravel from resources within Worcestershire. In order to ensure that a landbank of at least 7 years can and will be maintained throughout the plan period, and that there will be sufficient productive capacity to supply the necessary range of sand and gravel materials and products to various markets, the scale of provision required must be understood.
- 5.10 Worcestershire's Local Aggregate Assessment sets an annual "production guideline" for the amount of sand and gravel which should be produced, based on consideration of the average level of sales of sand and gravel from Worcestershire⁴⁰³ alongside other relevant local information and an assessment of supply options. This production guideline set in the baseline Local Aggregate Assessment has informed the calculation of the scale of sand and gravel provision required annually over the life of the plan (2018-2036), and how much is required in order to meet the requirement in national policy for a landbank of permitted reserves of at least 7 years.
- 5.11 The method used to calculate the production guideline in the baseline Local Aggregate Assessment⁴⁰⁴ considered estimates of future demand, and an assessment of supply options:
- Forecasting future demand:
 - » The average level of sales over the last 10 years (0.572 million tonnes) was used as a starting point for forecasting future demand. However, to avoid over-reliance on past trends,⁴⁰⁵ other relevant information was also considered to determine whether deviation from this average was required.
 - » The average level of sales over the last three years was considered, as this gives an indication of the most recent sales trend.⁴⁰⁶ The three year average sales figure was 19% lower than the 10 year average figure, but this may have been due to sites in the county coming to the end of their lives, rather than an indication of decreased demand.
 - » The sub-regional apportionment derived from the *National and regional guidelines for aggregates provision in England*⁴⁰⁷ was considered as an additional guide. The sub-regional apportionment figure was higher than the 10 year average sales figure, but was based on production before the recession and before the introduction of the National Planning Policy Framework, and it was considered that the weight which this should be given was limited.⁴⁰⁸
 - » Levels of planned housing development in Worcestershire were considered. Whilst Local Plan reviews are likely to confirm the continued need for housing growth in the county, the standard method for assessing housing need (autumn 2018) showed the number of houses required annually to be broadly similar to the average number of completions seen over the last 10 years.⁴⁰⁹
 - » Levels of commercial and infrastructure development were considered. Significant levels of commercial and infrastructure

403 The average level of sales of sand and gravel from Worcestershire over the 10 year period from 2008-2017 was 0.572 million tonnes per year. Data from 2012-2013 includes sales for both Herefordshire and Worcestershire as the data for those years was combined due to confidentiality requirements. See Worcestershire County Council (June 2020) *Worcestershire Local Aggregate Assessment (using data covering the period up to 31/12/2017)*, available at www.worcestershire.gov.uk/amr.

404 Worcestershire County Council (June 2020) *Worcestershire Local Aggregate Assessment (using data covering the period up to 31/12/2017)*, available at www.worcestershire.gov.uk/amr.

405 Weaknesses of the 10 year sales average are set out in paragraph 5.6 of the baseline Local Aggregate Assessment, including following historic supply patterns and economic trends rather than future demands, and that the number of sites may have been depressed due to limited site allocations and policies in the previous Minerals Local Plan.

406 The three year average sales figure (2015-2017) was 19% lower than the 10 year average figure. It was acknowledged that during 2016 and in to 2017 production was slowed at a number of sites which were coming towards the end of their life to ensure continuity as new planning permissions were being sought and implemented, and the sites which were granted planning permission during 2016 did not commence extraction until some way in to 2017, so would not have been able to operate at full capacity to meet demand throughout the year. The three year average was therefore not considered to be a reliable basis on which to deviate from the 10 year average in setting the production guideline.

407 Department for Communities and Local Government <https://www.gov.uk/government/publications/national-and-regional-guidelines-for-aggregates-provision-in-england-2005-to-2020>. The sub-regional apportionment for the period 2001-2016 was 92% higher than the 2017 sales figure and this level of production had not been achieved in Worcestershire since 2003. The 2005-2020 figure was not broken down to a sub-regional level, and the national guidelines have not since been updated. The national guidelines were based on production before the recession and before the introduction of the National Planning Policy Framework, and it was therefore considered that it would not be appropriate to increase the production guideline above the 10 year average on the basis of those guidelines or the sub-regional apportionment.

408 The Planning Inspectorate (August 2014) *Report on the Examination into the Northamptonshire Minerals and Waste Local Plan (Northamptonshire Minerals & Waste Development Framework Partial Review)* <http://www3.northamptonshire.gov.uk/councilservices/environment-and-planning/planning-policy/minerals-and-waste-planning-policy/documents/IDF%20Documents/ReportToNorthamptonshireCountyCouncilIV3.pdf>.

409 There is not a direct correlation between housing completions and the level of sales of sand and gravel. It was acknowledged in the baseline Local Aggregate Assessment that that the anticipated level of housing provision over the next 10 years in adopted Local Plans would represent a 34% increase in comparison to the average number of completions over the previous 10 years, and that further plan reviews are likely to confirm the continued need for housing growth in the county, along with associated infrastructure. However, the standard method for assessing housing need (autumn 2018) showed the number of houses required annually to be broadly similar to the average number of completions seen over the last 10 years. With significant uncertainty over the level of housing development, it was not considered appropriate for the production guideline to be adjusted on the basis of projected housing numbers.

development are proposed in Local Plans and Strategic Economic Plans, however it is difficult to quantify whether this is a likely to represent a significant increase in demand over the significant levels of commercial and infrastructure development in the county in previous years.^{410 411}

- » None of these factors was considered sufficient or reliable enough to warrant deviation from the 10 year average in the baseline aggregate assessment, but this may change in future Local Aggregate Assessments.
- Supply options and constraints were assessed:
 - » The available estimates of the sand and gravel resource within Worcestershire which is not affected by significant constraints was considered,⁴¹² which indicated that a total of 3,222-3,871 million tonnes of unsterilised resource may be available in Worcestershire.
 - » The number and status of extant sites was considered, including the levels of permitted reserves they contain. Three out of the four extant sites at the end of 2017 were active (in production for some time during the year), and none of the sites had planning conditions which would restrict their productive capacity.
 - » Consideration was also given to any planning applications pending decision, the number of remaining site allocations and whether or not they are likely to be brought forward, and any pre-application discussions. Whilst there were few applications pending and few remaining site allocations, pre-application discussions indicated that there is interest in developing further sand and gravel workings in Worcestershire in the near future.
 - » The limited data available on imports and exports of sand and gravel indicates that Worcestershire is a net exporter of sand and gravel, rather than reliant on being reliant on imports.
 - » Consideration was given to the potential to increase supply from

secondary and recycled materials, concluding that the availability of such materials tends to remain broadly consistent at around 28-29% of total consumption and that it is unlikely that they will make a significantly greater contribution to aggregate supply.

5.12 The baseline Local Aggregate Assessment concluded that whilst there was no evidence that demand for sand and gravel was likely to decrease, there was also not sufficient evidence to suggest that the production guideline should be increased above the 10 year average at that time. The production guideline for sand and gravel identified by the baseline Local Aggregate Assessment was therefore 0.572 million tonnes per annum.

5.13 The Local Aggregate Assessment is produced annually and the methods used and the conclusions reached may alter in future iterations of the Local Aggregate Assessment to reflect the latest policy and guidance, and the latest available information about the levels of sales, demand factors, and the balance between supply and demand. The production guideline is therefore very likely to vary through the life of the plan, and applicants and decision-makers should refer to the production guideline and scale of provision figures in the most recent Local Aggregate Assessment.



Processing plant at Ryall House Farm sand and gravel working

410 Significant levels of commercial and infrastructure development are proposed in Local Plans and Strategic Economic Plans. However, there is a lack of data to be able to estimate the level of demand for aggregates which such developments might create.

411 There were no Nationally Significant Infrastructure Projects planned or underway within Worcestershire, but it was acknowledged that the HS2 project could result in significant demand for aggregates. Whilst demand from that project is most likely to be met from mineral planning authorities closest to the line's route, the level of demand for this and other types of development is likely to require additional aggregate extraction in Worcestershire, although it was not possible to quantify the extent of any such additional requirements.

412 The "Sub-Regional Apportionment of Aggregates Provision in the West Midlands Region 2005 - 2020 Consultation paper 17-02-2010" document prepared for the West Midlands Regional Assembly by Land Use Consultants in February 2010, and Worcestershire County Council (April 2019) *Analysis of Mineral Resources*.



Excavating sand and gravel at Ryall's Court Farm Quarry

Provision over the life of the plan

- 5.14 The Minerals Local Plan has been developed to be sufficiently flexible to adapt to changes in the production guideline, but the baseline Local Aggregate Assessment provides a good indication of the likely minimum scale of provision required for sand and gravel over the life of the plan.
- 5.15 Supplying 0.572 million tonnes of sand and gravel each year over the life of the plan (2018-2036) will require a total of 10.868 million tonnes of sand and gravel. In addition to this, national policy requires a landbank of permitted reserves of at least 7 years to be maintained for sand and gravel, which will require a total of 4.004 million tonnes of sand and gravel. Together, this means the scale of provision required for sand and gravel over the life of the plan is at least 14.872 million tonnes.
- 5.16 The baseline figures set out the minimum amount of provision which is likely to be required, and they do not impose a cap on the amount of mineral development which can take place in Worcestershire. The direction of travel nationally and locally is towards greater levels of housing and infrastructure growth, and it is noted that the government confirmed

in February 2020 that the HS2 high-speed rail project should go ahead which is likely to lead to greater demand for sand and gravel from throughout the West Midlands to supply both the HS2 project and maintain supply to other developments. This indicates a likelihood that demand for sand and gravel will increase from the baseline. This will be considered in future iterations of the Local Aggregate Assessment.

5.17 At the end of 2017, there were four sand and gravel sites in Worcestershire:

- three sites were "active" (in production for some time during the year); and
- one was "inactive" (worked in the past and contains permitted reserves)⁴¹³.

Two of these sites contain terrace and glacial sand and gravel resources and are located within the Lower Severn Strategic Corridor, and two of the sites contain solid sand resources and are located within the North East Worcestershire Strategic Corridor.

413 This site classed its permitted reserves as being for 'non-aggregate uses'.



Ripple sand and gravel quarry

5.18 The permitted reserves of sand and gravel at these sites at the end of 2017 amounted to 3.465 million tonnes. Based on the production guideline of 0.572 million tonnes per annum, the landbank for sand and gravel in Worcestershire at the end of 2017 stood at 6.06 years, less than the minimum of 7 years required in national policy.

5.19 Supply from these existing permitted reserves will be a key part in maintaining a steady and adequate supply of sand and gravel. However, the Minerals Local Plan also needs to enable the provision of at least a further 11.407 million tonnes⁴¹⁴ of sand and gravel over the life of the plan to maintain both annual supply and a landbank of at least 7 years to 2036 and beyond.

Provision from new sites and alterations and extensions to extant sites

5.20 New sites, and alterations and extensions to existing sites will be crucial to delivering a steady and adequate supply of sand and gravel over the life of the plan.

5.21 Policy MLP 5 provides support to enable any necessary alterations to the development permitted at extant sites, subject to other parts of the Development Plan being satisfactorily addressed. Whilst some alterations to planning permissions for extant sites will not result in significant changes, some alterations may enable more efficient working or processing of minerals to support productive capacity, or may increase the amount of sand and gravel reserve permitted for extraction at a particular site.

5.22 Mineral development on new sites, and extensions to existing sites (i.e. development beyond a site's existing red line boundary) within the strategic corridors will be facilitated by the identification of mineral allocations and supported by policies MLP 2 and MLP 3.

- Specific sites and preferred areas for sand and gravel are likely to be allocated in the Mineral Site Allocations Development Plan Document, as multiple sites (for both terrace and glacial sand and gravel, and solid sand resources) have been put forward for consideration.
- Areas of search⁴¹⁵ have been allocated for sand and gravel as shown on Figure 4.1 (Key diagram) and defined on the Policies Map⁴¹⁶.
 - » Areas of search for terrace and glacial sand and gravel are concentrated within the Avon and Carrant Brook, Lower Severn, North East Worcestershire and North West Worcestershire Strategic Corridors, with a small number in the Salwarpe Tributaries Strategic Corridor.
 - » Areas of search for solid sand are located in the North East Worcestershire and North West Worcestershire Strategic Corridors.

5.23 Given the extent of these allocations across both types of sand and gravel resources, development proposals for sand and gravel over the life of the plan are expected to be on mineral allocations. Proposals for sand and gravel development on windfall sites either within or outside the strategic corridors will only be supported where they meet the tests set out in policy MLP 3 or policy MLP 4.

⁴¹⁴ Figure based on the baseline production guideline of 0.607 million tonnes, but the plan includes sufficient flexibility to adapt to changes in the production guideline.

⁴¹⁵ 100 areas of search are allocated for sand and gravel within the strategic corridors, representing 56.6% (by area) of the key and significant terrace and glacial sand and gravel resources and 82.75% (by area) of the key and significant solid sand resources in Worcestershire.

⁴¹⁶ The Policies Map defines the Minerals Local Plan's land-use designations and allocations and is available as part of an interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.

Policy MLP 15: Delivering a Steady and Adequate Supply of Sand and Gravel

Contributing to:

Objectives MO1, MO5

Planning permission will be granted for minerals development that will contribute to maintaining a steady and adequate supply of sand and gravel.

A level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards:

- a) maintaining a landbank of permitted sand and gravel reserves in Worcestershire of at least 7 years; and/or
- b) enabling Worcestershire's productive capacity for a wide range of sand and gravel materials and products to be maintained or enhanced.

Reasoned justification

5.24 Policy MLP 15 requires an appropriate level of technical assessment to be submitted with each application for sand and gravel development. Such assessments should be undertaken by an appropriate and competent expert and should include sufficiently detailed site investigations and analysis to demonstrate the quantity and quality of the resource at the site, such as through details of boreholes and trial pits, highlighting the depth, type and distribution of the resource, and differentiating between different phases of the development, in order to clearly demonstrate the contribution the proposed development will make towards maintaining or enhancing Worcestershire's landbank of permitted sand and gravel reserves, and/or productive capacity.

Contributing to landbank

- 5.25 The amount of resource which is permitted to be worked at an individual site will determine the contribution the site makes to the landbank as a whole. Site-specific circumstances and/or other policies in the development plan (including other policies in the Minerals Local Plan) may limit the total amount which can be extracted without causing unacceptable harm, whilst ensuring delivery of high-quality restoration and after-use is possible.
- 5.26 The technical assessment should clearly set out the types of resources proposed to be worked. If the site contains both solid sand resources and terrace and glacial sand and gravel resources, it should give an indication of the total amount of each type of deposit which would be worked.

5.27 A low landbank may be an indicator that suitable applications should be permitted as a matter of importance to ensure the steady and adequate supply of sand and gravel. However, there is no maximum landbank level, and each application will be considered on its own merits. It may also be necessary to have a landbank of more than 7 years to allow for the fact that mineral developments can take a significant amount of time to progress from identifying a site to that site contributing to supply, to ensure that sufficient supply can be maintained for a wide range of materials, or to ensure that a large landbank at very few sites does not stifle competition.

Contributing to productive capacity

- 5.28 In addition to maintaining a landbank of permitted reserves, the Mineral Planning Authority needs to ensure sufficient productive capacity is maintained in the county for a wide range of materials and products.
- 5.29 Worcestershire's overall productive capacity results from the number of active sites and their combined capacity to extract, process and sell minerals. Whilst there is some overlap in the uses and markets which can be supplied from sites working terrace and glacial deposits and sites working solid sand deposits (see paragraphs 2.13-2.18), each site is likely to contain resources with different properties, and sufficient productive capacity needs to be maintained for a range of materials to supply a variety of markets and uses. The technical assessment required by policy MLP 15 should clearly set out the types of resources proposed to be worked, and indicate the range of materials and products which it is anticipated will be produced.



Working terrace sand and gravel deposits at Ball Mill Quarry (courtesy of Herefordshire and Worcestershire Earth Heritage Trust)

5.30 Productive capacity at an individual site is not directly related to the size of its permitted reserves. The contribution a site can make to the annual supply of materials (its productive capacity) can be directly limited by the maximum possible throughput of a site's processing plant, or indirectly through measures which seek to minimise or mitigate environmental or amenity impacts, such as limiting opening hours or the number of vehicle movements. With relatively few active sites and limited permitted reserves, the overall security of Worcestershire's productive capacity could be put at risk by commercial decisions or natural events at any individual site.

5.31 Worcestershire's productive capacity for sand and gravel is therefore likely to be maintained and enhanced through a combination of additional sites on mineral allocations and more efficient plant, machinery and working practices at existing sites. Maintaining sufficient productive capacity to supply a variety of markets and end uses is likely to require sites within both the solid sands and the terrace and glacial sand and gravel resources across the five strategic corridors. This is supported by the allocation of 100 areas of search⁴¹⁷ for sand and gravel within the strategic corridors, and specific sites and preferred areas for sand and gravel are likely to be allocated in the Mineral Site Allocations Development Plan Document as multiple sites have been put forward for consideration.

5.32 Policy MLP 15 requires proposals to demonstrate the contribution they will make to maintaining or enhancing Worcestershire's productive capacity. The assessment should include the anticipated throughput and lifespan of a new site or extended working, the anticipated impact of new plant or amending planning conditions at existing sites, or the market or end use for which the mineral is needed.

5.33 Even where there is considered to be sufficient productive capacity for sand and gravel supply overall, new sites and amendments or extensions to existing sites which contribute to maintaining or enhancing productive capacity will be supported, as they will help to ensure the resilience of the minerals supply chain in Worcestershire. Where a site would contribute to productive capacity for particular uses or specifications, this should be set out in the technical assessment and will be given weight in decision-making.

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⁴¹⁷ 100 areas of search are allocated for sand and gravel within the strategic corridors, representing 56.6% (by area) of the key and significant terrace and glacial sand and gravel resources and 82.75% (by area) of the key and significant solid sand resources in Worcestershire.

Crushed rock

Policy MLP 16: Scale of Crushed Rock Provision

Contributing to:

Objectives MD1, MD5

The Minerals Local Plan seeks to secure the steady and adequate supply of crushed rock. Due to the range of constraints on Worcestershire's crushed rock resources, it seeks to achieve this through:

- continued importation of crushed rock under the Managed Aggregate Supply System and on-going consideration of this under the Duty to Cooperate; and
 - enabling a contribution to supply from indigenous resources with a view to achieving and maintaining a landbank of at least 10 years, and providing sufficient productive capacity for crushed rock to supply a wide range of crushed rock materials and products.
- a) To indicate the scale of provision required for crushed rock from indigenous resources during the life of the plan:
- i. The sub-regional apportionment for Worcestershire derived from the "National and regional guidelines for aggregates provision in England 2001-2016" provides an indicative provision figure (based on the scale of need and Worcestershire's ability to produce crushed rock) of 0.163 million tonnes per year.
 - ii. To achieve this level of production annually over the lifetime of the plan (2018-2036) would require a total of 3.097 million tonnes of crushed rock.
 - iii. A landbank of permitted reserves of at least 10 years at this level would require a total of at least 1.630 million tonnes of crushed rock.
 - iv. The baseline permitted reserves of crushed rock at the end of 2017 stood at 0 (zero) tonnes, resulting in a landbank of 0 years.
 - v. This means that the scale of provision required over the life of the plan is at least 4.727 million tonnes of crushed rock.

When considering the scale of provision required for crushed rock, applicants and decision-makers should refer to the production guideline in the most recent Local Aggregate Assessment as well as the sub-regional apportionment.¹

- b) To achieve this scale of provision, or as great a contribution towards it as possible, supply of crushed rock will be delivered from new developments on windfall sites outside the strategic corridors (see policy MLP 4).

¹ The sub-regional apportionment gives an indication of the scale of development required, although the apportionment has not been updated for the period beyond 2020. The Local Aggregate Assessment considers the rolling average of 10 years' sales data and other relevant local information to set a production guideline. As such, the production guideline and levels of permitted reserves may vary over the life of the Minerals Local Plan.

Reasoned justification

- 5.34 The Minerals Local Plan seeks to ensure that there is a steady and adequate supply of crushed rock in Worcestershire. However, there has been no crushed rock working in Worcestershire since 2010 and, at the end of 2017, there were no active crushed rock sites and no landbank of permitted reserves for crushed rock in Worcestershire,⁴¹⁸ and there are very few crushed rock resources in Worcestershire which are not affected by significant viability, environmental or amenity constraints.⁴¹⁹
- 5.35 A steady and adequate supply of crushed rock is therefore unlikely to be provided wholly by indigenous production in Worcestershire. Ongoing discussions under the Duty to Cooperate will be required with surrounding Mineral Planning Authorities and Aggregate Working Parties to ensure there is ongoing ability for other mineral planning authorities to provide crushed rock under the Managed Aggregate Supply System.
- 5.36 However, whilst the Minerals Local Plan recognises that production from within Worcestershire may be challenging, that the allocation of specific sites and/or preferred areas for crushed rock is unlikely as no sites have been put forward for consideration, and that the range of constraints on Worcestershire's crushed rock resources means that no areas of search for crushed rock have been allocated, policy MLP 16 seeks to support and enable crushed rock development within Worcestershire. In order to support delivery of a landbank of at least 10 years, and to enable sufficient productive capacity for crushed rock to meet need and to supply the necessary range of materials and products to various markets, the scale of provision required must be understood.

Production guideline

- 5.37 Worcestershire's Local Aggregate Assessment sets an annual "production guideline" for the amount of crushed rock which should be produced, based on consideration of the average level of sales of crushed rock from Worcestershire⁴²⁰ alongside other relevant local information and an assessment of supply options.
- 5.38 The method used to calculate the production guideline in the baseline Local Aggregate Assessment⁴²¹ considered estimates of future demand, and an assessment of supply options:
- Forecasting future demand:
 - » The average level of sales over the last 10 years (0.014 million tonnes) was used as a starting point for forecasting future demand. However, to avoid over-reliance on past trends,⁴²² other relevant information was also considered to determine whether deviation from this average was required.
 - » The average level of sales over the last three years was considered, as this gives an indication of the most recent sales trend.⁴²³ The three year average was 0 tonnes, as there were no operational crushed rock sites in Worcestershire during this period.
 - » The sub-regional apportionment derived from the *National and regional guidelines for aggregates provision in England*⁴²⁴ was considered as an additional guide. The sub-regional apportionment was more than 10 times higher than the 10 year average sales figure, but was based on production before the recession and before the introduction of the National Planning Policy Framework, and it was considered that the weight which this should be given in determining the production guideline was limited.⁴²⁵

418 No sites for crushed rock working have been put forward in response to five calls for sites between 2014 and 2020 during the development of the Minerals Local Plan and Mineral Site Allocations Development Plan Document.

419 For further information about future crushed rock supply and the constraints on the rock resources in Worcestershire, see Figure 2.4a and paragraphs 2.37-2.39.

420 The average level of sales of crushed rock from Worcestershire over the 10 year period from 2008-2017 was 0.014 million tonnes per year. Worcestershire's data was combined with Herefordshire up to 2009 due to issues of commercial confidentiality, and in order to calculate the 10 year average of sales, an assumption was made that a third of the sales was attributable to Worcestershire. See Worcestershire County Council (June 2020) *Worcestershire Local Aggregate Assessment (using data covering the period up to 31/12/2017)*, available at www.worcestershire.gov.uk/amr.

421 Worcestershire County Council (June 2020) *Worcestershire Local Aggregate Assessment (using data covering the period up to 31/12/2017)*, available at www.worcestershire.gov.uk/amr.

422 Weaknesses of the 10 year sales average are set out in paragraph 6.7 of the baseline Local Aggregate Assessment, including following historic supply patterns and economic trends rather than future demands, and that the number of sites may have been depressed due to limited site allocations and policies in the previous Minerals Local Plan.

423 The three year average sales figure (2015-2017) was 0 tonnes. The three year average was considered to indicate that it may be appropriate to decrease the production guideline to less than the 10 year average.

424 Department for Communities and Local Government <https://www.gov.uk/government/publications/national-and-regional-guidelines-for-aggregates-provision-in-england-2005-to-2020>. The sub-regional apportionment figure of 0.163 million tonnes for crushed rock had not been achieved in Worcestershire since 2002. The 2005-2020 figure was not broken down to a sub-regional level, and the national guidelines have not since been updated. The national guidelines were based on production before the recession and before the introduction of the National Planning Policy Framework, and it was therefore considered that it would not be appropriate to increase the production guideline above the 10 year average on the basis of those guidelines or the sub-regional apportionment.

425 The Planning Inspectorate (August 2014) *Report on the Examination into the Northamptonshire Minerals and Waste Local Plan (Northamptonshire Minerals & Waste Development Framework Partial Review)*.

- » Levels of planned housing development in Worcestershire were considered as an indicator of future demand. Whilst Local Plan reviews are likely to confirm the continued need for housing growth in the county, the standard method for assessing housing need (autumn 2018) showed the number of houses required annually to be broadly similar to the average number of completions seen over the last 10 years.⁴²⁶
 - » Significant levels of commercial and infrastructure development are proposed in Local Plans and Strategic Economic Plans, however it is difficult to quantify whether this is a likely to represent a significant increase in demand over the significant levels of commercial and infrastructure development in the county in previous years.^{427 428}
 - Supply options and constraints were assessed:
 - » The available estimates of the crushed rock resources within Worcestershire which are not affected by significant constraints were considered,⁴²⁹ which indicated that a total of between 1.47 and 427.58 million tonnes of unsterilized resource may be available in Worcestershire.
 - » The number and status of extant sites was considered, including levels of permitted reserves they contain. There were no sites with permitted reserves of crushed rock at the end of 2017.
 - » Consideration was also given to the fact that there were no planning applications pending decision, and that there were no remaining site allocations for crushed rock in the 1997 Minerals Local Plan. No sites for crushed rock had been put forward in response to calls for sites, and no pre-application discussions had been held. This was considered to be a strong indication that there was limited interest in developing crushed rock workings in Worcestershire in the immediate future.
 - » The limited data available on imports and exports of crushed rock indicates that Worcestershire is a net importer of crushed rock. With no extant sites, permitted reserves or applications pending at the end of 2017, Worcestershire is likely to be reliant on crushed rock imports for at least the near future.
 - » Further consideration was given to the constraints⁴³⁰ on the crushed rock resources in Worcestershire and the reliance on imports from other mineral planning authorities. Discussions were held under the Duty to Cooperate about Worcestershire's likely difficulty in providing crushed rock.
- 5.39 The baseline Local Aggregate Assessment concluded that whilst there was no evidence that demand for crushed rock was likely to decrease, delivery constraints and lack of sites and proposals indicated that the 10 year average did not provide a suitable production guideline for crushed rock. Discussions under the Duty to Cooperate concluded that Worcestershire's production guideline for crushed rock should be reduced to 0 (zero) tonnes, but that the Minerals Local Plan should provide a policy framework to enable crushed rock development to take place, recognising the national policy requirement for the maintenance of a landbank of at least 10 years for crushed rock.⁴³¹

426 There is not a direct correlation between housing completions and the level of sales of crushed rock. However, it was acknowledged that the anticipated level of housing provision over the next 10 years in adopted Local Plans would represent a 34% increase in comparison to the average number of completions over the previous 10 years, and that further plan reviews are likely to confirm the continued need for housing growth in the county, along with associated infrastructure. However, the standard method for assessing housing need (autumn 2018) showed the number of houses required annually to be broadly similar to the average number of completions seen over the last 10 years. With significant uncertainty over the level of housing development, it was not considered appropriate for the production guideline to be adjusted on the basis of projected housing numbers.

427 Significant levels of commercial and infrastructure development are proposed in Local Plans and Strategic Economic Plans. However, there is a lack of data to be able to estimate the level of demand for aggregates which such developments might create.

428 There were no Nationally Significant Infrastructure Projects planned or underway within Worcestershire, but it was acknowledged that the HS2 project could result in significant demand for aggregates. Whilst demand from that project is most likely to be met from mineral planning authorities closest to the line's route, the level of demand for this and other types of development is likely to require additional aggregate extraction in Worcestershire, although it was not possible to quantify the extent of any such additional requirements.

429 The 'Sub-Regional Apportionment of Aggregates Provision in the West Midlands Region 2005 - 2020 Consultation paper 17-02-2010' document prepared for the West Midlands Regional Assembly by Land Use Consultants in February 2010, and Worcestershire County Council (April 2019) *Analysis of Mineral Resources*.

430 The baseline Local Aggregate Assessment noted that although the constraints on the crushed rock resources in Worcestershire are not in themselves an absolute bar on crushed rock development, the combination of the significant level of environmental protection imposed through legislation and policy tests together meant that crushed rock is unlikely to be commercially attractive for the foreseeable future.

431 See Worcestershire County Council (June 2020) *Worcestershire Local Aggregate Assessment (using data covering the period up to 31/12/2017)* and Worcestershire County Council (2016) *Minerals Local Plan Background Document - Strategic cross boundary issue: Crushed rock supply in Worcestershire. Summary of action undertaken under the duty to cooperate*, available at www.worcestershire.gov.uk/mineralsbackground.

5.40 The Local Aggregate Assessment is produced annually, and the methods used and the conclusions reached may alter in future iterations of the Local Aggregate Assessment to reflect the latest policy and guidance, and the latest available information about the levels of sales, demand factors, and the balance between supply and demand. The production guideline may therefore vary through the life of the plan. The Minerals Local Plan has been developed to be sufficiently flexible to adapt to such changes, but applicants and decision makers should refer to the production guideline and scale of provision figures in the most recent Local Aggregate Assessment.

Provision over the life of the plan

5.41 The Minerals Local Plan has been developed to be sufficiently flexible to adapt to changes in the production guideline, but whilst the baseline production guideline of zero provides a good indication of the level of production likely to be achieved in the near future, it does not provide an indication of the level of provision which may be required in order to contribute towards meeting market demands. Alternatives were therefore considered to give an indication of the scale of provision which may be required during the life of the plan:

- Imports: As crushed rock has not been produced in the county for a number of years, the level of imports into the county would provide a clear picture of the level of demand. However, there is very little information available about imports of crushed rock, and the data which is available (set out in paragraph 2.36 and table 2.2) does not represent a complete dataset and caution must be applied in relying on that data. In addition, simply considering demand factors alone would not take account of the constraints on Worcestershire's ability to supply that demand.
- Sub-regional apportionment: Whilst the sub-regional apportionment for Worcestershire derived from the "National and regional guidelines for aggregates provision in England 2001-2016" is somewhat dated, and the guidelines are not currently being updated, they take account of both demand factors and supply constraints, and therefore provide the best indication at the time of developing the Minerals Local Plan of the scale of provision which may be required

from within Worcestershire, at 0.163 million tonnes per year.

5.42 Supplying 0.163 million tonnes of crushed rock each year over the life of the plan (2018-2036) will require a total of 3.097 million tonnes of crushed rock. In addition to this, national policy requires a landbank of permitted reserves of at least 10 years to be maintained for crushed rock, which will require a total of at least 1.630 million tonnes of crushed rock. Together, this means the scale of provision required for crushed rock over the life of the plan is at least 4.727 million tonnes.

5.43 Whilst the constraints surrounding Worcestershire's crushed rock resources⁴³² mean that crushed rock working at a significant scale is considered unlikely during the life of the plan, the figure for the scale of provision required does not impose a cap on the amount of crushed rock development which can take place in Worcestershire. The direction of travel nationally and locally is towards greater levels of housing and infrastructure growth, and it is noted that the government confirmed in February 2020 that the HS2 high-speed rail project should go ahead which is likely to lead to greater demand for sand and gravel from throughout the West Midlands to supply both the HS2 project and maintain supply to other developments. This indicates a likelihood that demand for sand and gravel will increase from the baseline. This will be considered in future iterations of the Local Aggregate Assessment. When considering the scale of provision required for crushed rock, applicants and decision-makers should refer to the sub-regional apportionment figure alongside the production guideline and scale of provision figures in the most recent Local Aggregate Assessment.

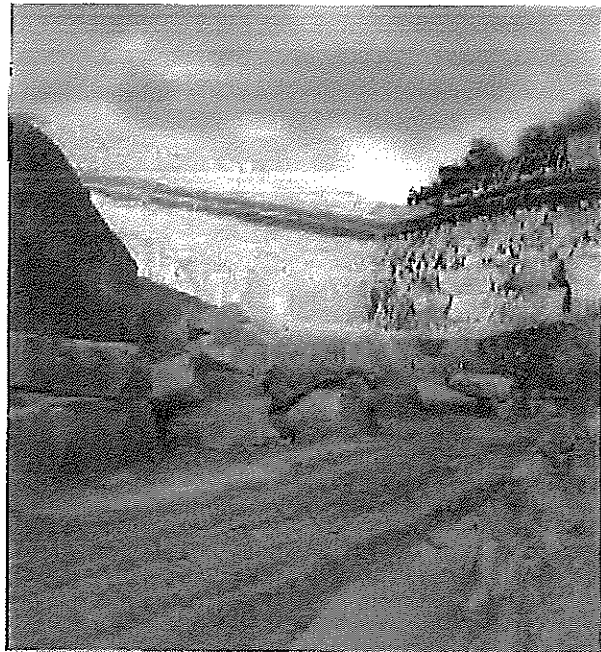
432 See Chapter 2: Portrait of Worcestershire.

Importation of crushed rock

- 5.44 The Managed Aggregate Supply System⁴³³ seeks to ensure a steady and adequate supply of aggregate mineral, to handle the significant geographical imbalances in the occurrence of suitable natural aggregate resources and the areas where they are most needed. It requires mineral planning authorities which have adequate resources of aggregates to make an appropriate contribution to national as well as local supply, while making due allowance for the need to control any environmental damage to an acceptable level. It also ensures that areas with smaller amounts of aggregate make some contribution towards meeting local and national need, where that can be done sustainably.
- 5.45 Policy MLP 16 acknowledges that the continued importation of crushed rock under the Managed Aggregate Supply System will be an important part of maintaining a steady and adequate supply of crushed rock resources in Worcestershire, but that there is an on-going need to consider this under the Duty to Cooperate.
- 5.46 The baseline Local Aggregate Assessment highlights that the majority of demand for crushed rock in Worcestershire over recent years has been met by increased imports of crushed rock from outside the county, and relevant Mineral Planning Authorities and Aggregate Working Parties have indicated that supplying Worcestershire's demand for crushed rock can continue to be accommodated. However, it is possible that this could change during the life of the plan.
- 5.47 Any significant changes in the ability of surrounding Mineral Planning Authorities to accommodate supplying Worcestershire's demand for crushed rock will influence the balance of supply and demand calculated in the annual Local Aggregate Assessment, and may result in the need for a partial or full review of the Minerals Local Plan (see monitoring indicators for objective MO 1 in Chapter 8).

Provision from new sites

- 5.48 At the end of 2017, there were no sites with permitted reserves for crushed rock in Worcestershire, and therefore no landbank of permitted reserves. New sites for crushed rock will therefore be crucial if Worcestershire is to contribute towards the steady and adequate supply of crushed rock from indigenous resources over the life of the plan.
- 5.49 However, the allocation of specific sites and/or preferred areas for crushed rock is unlikely as no sites have been put forward for consideration, no crushed rock resources occur within the strategic corridors, and the range of constraints on Worcestershire's crushed rock resources means that no areas of search for crushed rock have been allocated. Proposals for crushed rock development over the life of the plan will therefore be supported on windfall sites outside the strategic corridors where they meet the tests set out in policy MLP 4.



Broadway Quarry, near Fish Hill

433 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals*, paragraph: 060 Reference ID: 27-060-20140306 Revision date: 06 03 2014.

Policy MLP 17: Delivering a Steady and Adequate Supply of Crushed Rock

Contributing to:

Objectives MO1, MO5

Planning permission will be granted for minerals development that will contribute to achieving a steady and adequate supply of crushed rock.

A level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards:

- a) increasing or maintaining the landbank of permitted crushed rock reserves in Worcestershire to achieve or maintain a landbank of at least 10 years;
- and/or
- b) enabling Worcestershire's productive capacity for a wide range of crushed rock materials and products to be maintained or enhanced.

Reasoned justification

5.50 Policy MLP 17 requires an appropriate level of technical assessment to be submitted with each application for crushed rock development. Such assessments should be undertaken by an appropriate and competent expert and should include sufficiently detailed site investigations and analysis to demonstrate the quantity and quality of the resource at the site, such as through details of boreholes and trial pits, highlighting the depth, type and distribution of the resource. The assessment should differentiate between different phases of the development, in order to clearly demonstrate the contribution the proposed development would make towards increasing or maintaining Worcestershire's landbank of permitted crushed rock reserves and/or productive capacity.

5.53 A low landbank may be an indicator that suitable applications should be permitted as a matter of importance to ensure the steady and adequate supply of crushed rock. However, there is no maximum landbank level, and each application will be considered on its own merits. It may also be necessary to have a landbank of more than 10 years to allow for the fact that mineral developments can take a significant amount of time to progress from identifying a site to that site contributing to supply, to ensure that sufficient supply can be maintained for a wide range of materials, or to ensure that a large landbank at very few sites does not stifle competition.

Contributing to landbank

5.51 The amount of resource which is permitted to be worked at an individual site will determine the contribution the site makes to the landbank as a whole. Site-specific circumstances and/or other policies in the development plan (including other policies in the Minerals Local Plan) may limit the total amount which can be extracted without causing unacceptable harm, whilst ensuring delivery of high-quality restoration and after-use is possible.

5.52 The technical assessment should clearly set out the types of resources proposed to be worked. If the site contains more than one type of rock, it should give an indication of the total amount of each type of deposit which would be worked.

Contributing to productive capacity

5.54 In addition to maintaining a landbank of permitted reserves, productive capacity for a wide range of materials and products is required.

5.55 Worcestershire's overall productive capacity for crushed rock will result from the number of active sites and their combined capacity to extract, process and sell minerals. The technical assessment required by policy MLP 17 should clearly set out the types of resources proposed to be worked, and indicate the range of materials and products which it is anticipated will be produced.



Extracting crushed rock at Fish Hill Quarry

- 5.56 Productive capacity at an individual site is not directly related to the size of its permitted reserves. The contribution a site can make to the annual supply of materials (its productive capacity) can be directly limited by the maximum possible throughput of a site's processing plant, or indirectly through measures which seek to minimise or mitigate environmental or amenity impacts, such as limiting opening hours or the number of vehicle movements. If there are relatively few active sites and limited permitted reserves, the overall security of Worcestershire's productive capacity could be put at risk by commercial decisions or natural events at any individual site.
- 5.57 Worcestershire's productive capacity for crushed rock will be maintained and enhanced through new development on windfall sites outside the strategic corridors, and could also be enhanced by more efficient plant, machinery and working practices at any existing sites over the life of the plan.
- 5.58 Policy MLP 17 requires proposals to demonstrate the contribution they will make to maintaining or enhancing Worcestershire's productive capacity. The assessment should include the anticipated throughput and lifespan of a new site or extended working, the anticipated impact of new plant or amending planning conditions at existing sites, and/or the market or end use for which the mineral is needed.
- 5.59 Even where there is considered to be sufficient productive capacity for crushed rock supply overall, proposals which contribute to maintaining or enhancing productive capacity will be supported, as they will help to ensure the resilience of the minerals supply chain in Worcestershire.
- 5.60 Where a site would contribute to productive capacity for particular uses or specifications, this should be set out in the technical assessment and will be given weight in decision-making.

Industrial minerals supply

5.61 Industrial mineral working tends to have associated plant and infrastructure which requires significant capital investment and long investment timescales, such as kilns for manufacturing cement or bricks. National policy recognises that long-term investment needs will influence landbank requirements for these minerals.

Brick clay and clay products

Policy MLP 18: Scale of Brick Clay Provision

Contributing to:

Objectives MO1, MO5

A stock of permitted reserves will be maintained to support new or existing plant, and sufficient productive capacity will be maintained to supply a range of brick clay and clay products, taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made.

- a) To indicate the scale of provision required for brick clay over the life of the plan:
 - i. The baseline 10 year average of sales of brick clay from Worcestershire was 0.126 million tonnes per year.
 - ii. To achieve this level of production over the life of the plan (2018-2036) would require a total of 2.394 million tonnes of brick clay.
- b) Steady and adequate supply of brick clay and clay products will be delivered from a combination of extant sites and new developments (including extensions to extant sites):
 - i. The baseline stock of permitted reserves at extant sites is likely to be adequate to maintain provision of at least 0.126 million tonnes per year throughout the plan period.
 - ii. New sites and alterations or extensions to extant sites may contribute to the security of productive capacity and/or support investment in or maintenance of new or existing plant and equipment:
 - » Proposals for supply from brick clay allocations (Mercia Mudstone Group resources) will be supported in the Avon and Carrant Brook, Lower Severn and Salwarpe Tributaries Strategic Corridors (see policy MLP 3).
 - » As the identification of the strategic corridors was informed by the distribution of brick clay resources, and they contain extensive areas of search for brick clay, proposals for brick clay development (whether Mercia Mudstone Group or other geological deposits) on windfall sites either within or outside the strategic corridors will only be supported where they meet the tests set out in policies MLP 3 or 4.

Reasoned justification

Scale of provision

- 5.62 Worcestershire plays a significant role in the supply of brick clay and clay products both locally and nationally, and the Minerals Local Plan seeks to ensure that there continues to be a steady and adequate supply of brick clay and clay products from resources within Worcestershire. In order to ensure that a stock of permitted reserves will be maintained to support new or existing plant, and sufficient productive capacity will be maintained to supply a range of brick clay and clay products, taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made, the scale of provision required must be understood.
- 5.63 Sales of brick clay from Worcestershire are approximately 0.126 million tonnes per annum.⁴³⁴ At the end of 2017 there were two clay sites in Worcestershire, each with associated brickworks. These clay workings have a stock of permitted reserves sufficient to maintain provision of at least 0.126 million tonnes per year throughout the life of the plan.⁴³⁵ However, the direction of travel nationally and locally is towards greater levels of housing and infrastructure growth, and therefore this is likely to be the minimum level of provision which will need to be made for brick clay and the baseline figures do not impose a cap on the amount of mineral development which can take place in Worcestershire.
- 5.64 Both of the existing sites and brickworks in Worcestershire are run by the same operator and are in close proximity in the west of the Salwarpe Tributaries Strategic Corridor. The overall security of Worcestershire's productive capacity could therefore be particularly vulnerable to commercial decisions or natural events at any individual site. In addition, producing a variety of types of brick and clay products with different colours, finishes and technical specifications required by the market can require the blending of clays from a number of sources to obtain the durability or colours and textures demanded. The proximity of the two existing sites in Worcestershire means they are likely to provide very similar clay resources.
- 5.65 Additional sites may therefore be required to ensure the security of productive capacity in the county, and further permitted reserves may be required to support investment in or maintenance of new or existing plant and equipment, or to enable appropriate blends to be made.

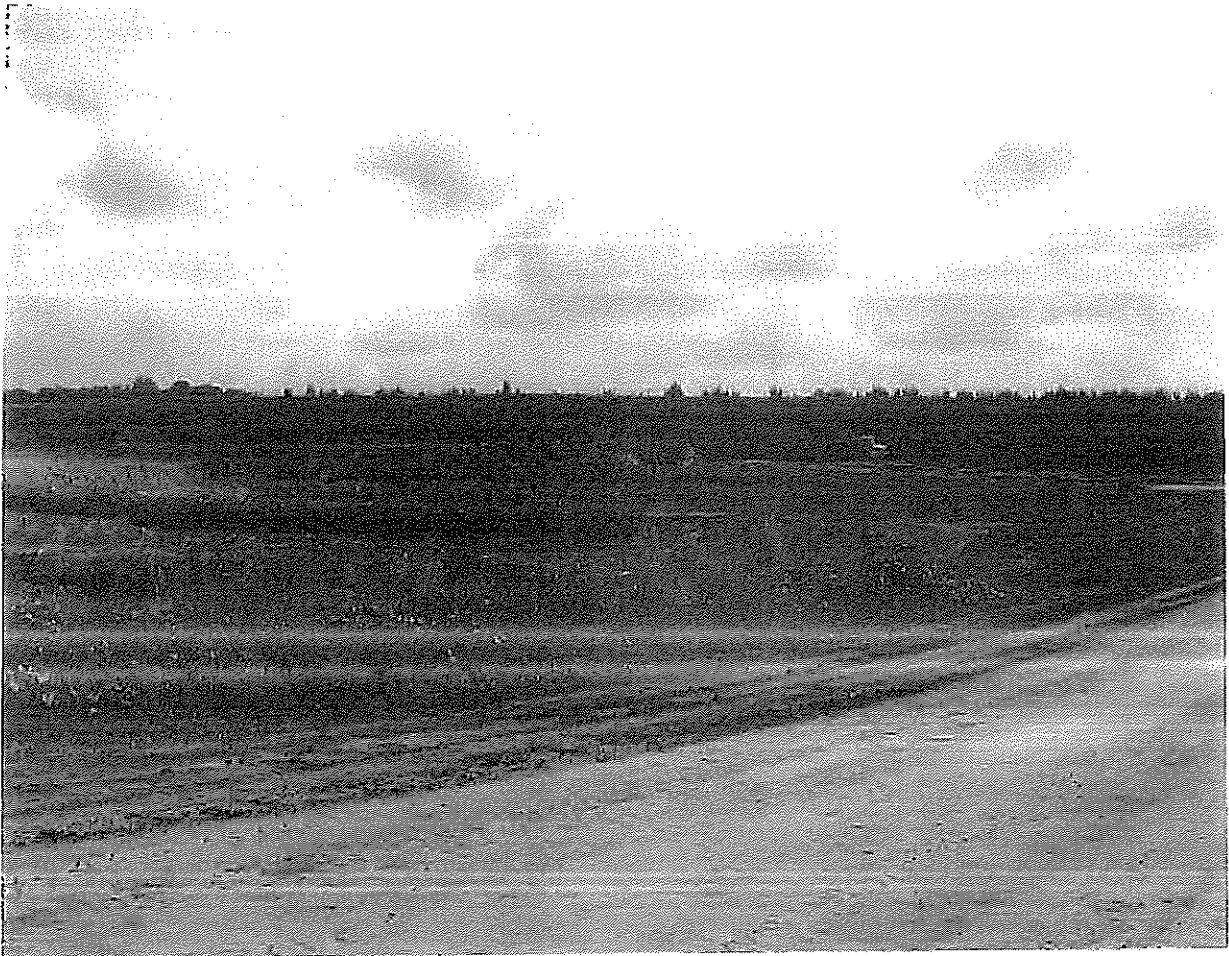
Provision from new sites and alterations and extensions to extant sites

- 5.66 Existing sites will be crucial to delivering a steady and adequate supply of brick clay and clay products over the life of the plan. Policy MLP 5 provides support to enable any necessary alterations to the development permitted at extant sites, subject to other parts of the Development Plan being satisfactorily addressed. Whilst some alterations to planning permissions for extant sites will not result in significant changes, some alterations may enable more efficient working or processing of minerals to support productive capacity, or may increase the amount of clay reserves permitted for extraction at a particular site. Such alterations to existing permissions may support investment in associated plant and equipment.
- 5.67 The allocation of specific sites and/or preferred areas for brick clay is unlikely, as no sites have been put forward for consideration. The majority of development proposals for new sites, and extensions to existing sites (i.e. development beyond a site's existing red line boundary) for brick clay over the life of the plan are expected to be on areas of search. 13 areas of search have been allocated for brick clay (Mercia Mudstone Group), as shown on Figure 4.1 (Key diagram) and defined on the Policies Map⁴³⁶ and development proposals in areas of search are supported by policy MLP 3. The areas of search for brick clay are concentrated within the Salwarpe Tributaries, Lower Severn, and Avon and Carrant Brook Strategic Corridors, with less extensive areas of search for brick clay in the North East Worcestershire Strategic Corridor.

434 10 year average based on *Mineral extraction in Great Britain, Business Monitor PA1007* reports for 2005 to 2014. This is the most recent data available. Data for Worcestershire was only published for 2012, 2011, 2010, and 2006. The data for other years was withheld to avoid disclosure of information relating to an individual undertaking without the consent of the person carrying on that undertaking.

435 Based on the figure for the remaining stock of permitted reserves in December 2016 (as provided in confidential discussions with the operator of the clay sites in Worcestershire, Weimerberger. April 2017), the permitted reserves would last approximately 63 years based on the 10 year average of known annual sales, but based on the sites' maximum potential output this could be less than 25 years.

436 13 areas of search are allocated for brick clay within the strategic corridors, representing 20.7% (by area) of the screened Mercia Mudstone Group resources in Worcestershire. The Policies Map defines the Minerals Local Plan's land-use designations and allocations and is available as part of an interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.



New House Farm Quarry (brick clay), near Hartlebury

5.68 It is possible that other geological groups or formations in the county may have the potential to provide brick clay resources with particular forming or firing properties, or for a particular blend of clays to achieve the colours or other aesthetic qualities required. Whilst it is recognised that information about the quality and properties of the resources within the Mercia Mudstone Group is limited, the areas of search are extensive and have the potential to provide the necessary resources for the supply of a range of products. Proposals for brick clay development on windfall sites either within or outside the corridors will therefore only be supported where they meet the tests set out in policy MLP 3 or policy MLP 4.

Policy MLP 19: Delivering a Steady and Adequate Supply of Brick Clay and Clay Products

Contributing to:

Objectives MO1, MO5

Planning permission will be granted for minerals development proposals that will contribute to maintaining a steady and adequate supply of brick clay and clay products.

A level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards:

- a) maintaining a stock of permitted reserves at the individual clay site of at least 25 years to support investment in developing, maintaining or improving new or existing plant and equipment;
- b) providing clay which will enable appropriate blends to be made; and/or
- c) enabling Worcestershire's productive capacity for brick clay or clay products to be maintained or enhanced.

Reasoned justification

5.69 Policy MLP 19 requires an appropriate level of technical assessment to be submitted with each application for brick clay development. Such assessments should be undertaken by an appropriate and competent expert and should include sufficiently detailed site investigations and analysis to demonstrate the quantity and quality of the resource at the site, such as through details of boreholes and trial pits, highlighting the depth, type and distribution of the resource, differentiating between different phases of the development. This should demonstrate:

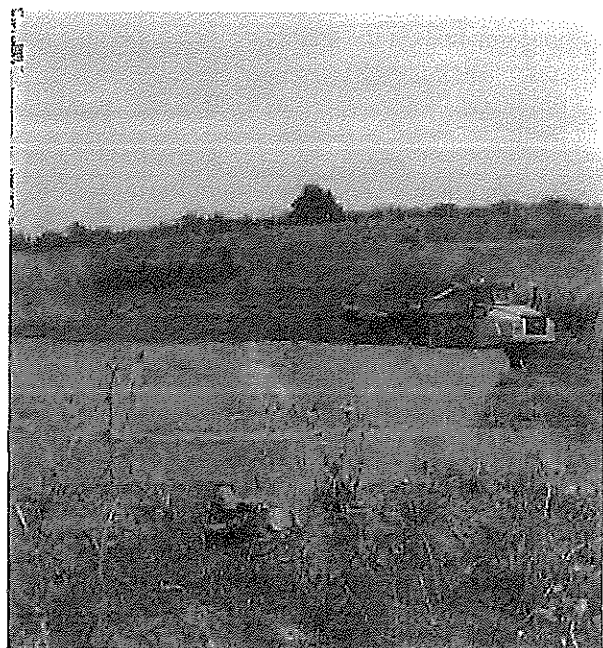
- how the proposed development would support actual or proposed investment in developing, maintaining or improving new or existing plant and equipment;
- how the proposed development would enable appropriate blends at works within or beyond Worcestershire; and/or
- the scale of the contribution the proposed development would make towards Worcestershire's productive capacity for brick clay or clay products. This may include the anticipated throughput and lifespan of a new site, extended working, or new plant, or the anticipated impact of amending planning conditions at existing sites.

Stocks of permitted reserves

5.70 A stock of permitted reserves of at least 25 years may be required at an individual site in order to support investment in developing, maintaining or improving new or existing plant and equipment. Site-specific circumstances

and/or other policies in the development plan (including other policies in the Minerals Local Plan) may limit the total amount which can be extracted without causing unacceptable harm, whilst ensuring delivery of high-quality restoration and after-use is possible.

5.71 The technical assessment should clearly set out the types of resources proposed to be worked and how the proposed development is linked to the capital investment required. A low stock of permitted reserves may be an indicator of urgent need, although each application will be considered on its own merits.



New House Farm Quarry (brick clay), near Hartlebury

Enabling appropriate blends to be made

- 5.72 There are hundreds of different types of brick and clay products on the market with different colours, finishes and technical specifications. Producing these can require the blending of clays from a number of sources to obtain the durability or colours and textures demanded.
- 5.73 The technical assessment should clearly set out the types of resources proposed to be worked and whether the proposed development will enable the provision of different types of clay with the necessary properties and qualities to allow appropriate blends to be made to meet such specifications. This may include working clay resources in Worcestershire to supply brick works either within or outside the county.

Contributing to productive capacity

- 5.74 In addition to maintaining stocks of permitted reserves, the Mineral Planning Authority needs to ensure sufficient productive capacity is maintained in the county.
- 5.75 Worcestershire's overall productive capacity results from the number of active sites and their combined capacity to extract, process and sell minerals. The technical assessment required by policy MLP 19 should clearly set out the types of resources proposed to be worked, and indicate the range of materials and products which it is anticipated will be produced.
- 5.76 Productive capacity at an individual site is not directly related to the size of its permitted reserves. The contribution a site can make to the annual supply of materials (its productive capacity) can be directly limited by the maximum throughput of the site's processing plant, or indirectly through measures which seek to minimise or mitigate environmental or amenity impacts, such as limiting opening hours or the number of vehicle movements.

5.77 Worcestershire's productive capacity for brick clay and clay products, is therefore likely to be maintained or enhanced through a combination of additional sites on mineral allocations and more efficient plant, machinery and working practices at existing sites. This is facilitated by the allocation of 13 areas of search for brick clay (Mercia Mudstone Group)⁴³⁷ concentrated within the Salwarpe Tributaries, Lower Severn and Avon and Carrant Brook Strategic Corridors, with less extensive areas of search for brick clay in the North East Worcestershire Strategic Corridor.

5.78 Policy MLP 19 requires proposals to demonstrate the contribution they will make to maintaining or enhancing Worcestershire's productive capacity. The assessment should include the anticipated throughput and lifespan of a new site or extended working, the anticipated impact of new plant or amending planning conditions at existing sites, or the market or end use for which the mineral is needed.

5.79 Even where there is considered to be sufficient productive capacity for brick clay supply overall, proposals which contribute to maintaining or enhancing productive capacity will be supported, as they will help to ensure the resilience of the minerals supply chain in Worcestershire.

5.80 Where a site would contribute to productive capacity for particular colours, finishes or technical specifications, this should be set out in the technical assessment and will be given weight in decision-making.

⁴³⁷ 13 areas of search are allocated for brick clay within the strategic corridors, representing 19.5% (by area) of the screened Mercia Mudstone Group resources in Worcestershire.

Silica sand

Policy MLP 20: Scale of Silica Sand Provision

Contributing to:

Objectives MO1, MO5

A stock of permitted reserves will be maintained to support new or existing plant, and productive capacity will be maintained to enable the supply of silica sand,

- a) To indicate the scale of provision required for silica sand over the life of the plan:
 - i. The known baseline of sales of silica sand from Worcestershire in 2013 was 0.002 million tonnes.
 - ii. To achieve this level of production over the life of the plan (2018-2036) would require a total of 0.038 million tonnes of silica sand.
 - iii. The baseline stock of permitted reserves is unknown.
- b) To achieve this scale of provision, silica sand is likely to be delivered from a combination of extant sites and new developments (including extensions to extant sites) either as stand-alone operations or alongside solid sands for aggregate use:
 - i. Permitted reserves at extant sites will contribute towards supply.
 - ii. New sites and alterations or extensions to extant sites will contribute to the security of productive capacity and/or support investment in or maintenance of new or existing plant and equipment:
 - » Proposals for supply from silica sand allocations will be supported in the North East Worcestershire and North West Worcestershire Strategic Corridors (see policies MLP 2 and MLP 3).
 - » As the identification of the strategic corridors was informed by the distribution of silica sand resources, and they contain extensive areas of search for silica sand, proposals for silica sand development on windfall sites either within or outside the strategic corridors will only be supported where they meet the tests set out in policies MLP 3 or MLP 4.

Reasoned justification

Scale of provision

5.81 Worcestershire does not play a significant role in the supply of silica sand for industrial uses due to low levels of demand for the type of silica sand found in the county (naturally bonded moulding sand, or foundry sand). However, the Minerals Local Plan seeks to ensure that a steady and adequate supply of silica sand can continue to be supplied from resources within Worcestershire. In order to ensure that a stock of permitted reserves will be maintained to support new or existing plant, and sufficient productive capacity will be maintained for the supply of silica sand, the scale of provision required must be understood.

5.82 Sales of silica sand from Worcestershire were 2,000 tonnes in 2013.⁴³⁸ Sales of silica sand from the county account for less than 1% of national supply of foundry sand,⁴³⁹ and silica sand from Worcestershire is not used in glass manufacture or other industrial uses as different grades of silica sand are not usually interchangeable.

438 This is the most recent data available in *Mineral extraction in Great Britain, Business Monitor PA1007* reports. Data for Worcestershire alone was only published for 2013. Data for Herefordshire and Worcestershire combined showed sales of 3,000 tonnes in both 2010 and 2011. Data for other years was withheld to avoid disclosure of information relating to an individual undertaking without the consent of the person carrying on that undertaking.

439 Department for Communities and Local Government (February 2013) *Mineral extraction in Great Britain 2011, Business Monitor PA1007* (Table 1 – Industrial sand).

5.83 Demand for silica sand for foundry uses has significantly decreased from historic levels due to the increased use of high-silica, clay-free (washed) and synthetic sands as foundry sands which can more easily be controlled to meet precise specifications. However, the small amount of silica sand produced in Worcestershire supplies multiple small foundries around the UK.⁴⁴⁰ There is no indication that these levels of demand are likely to either increase or decrease significantly, however the baseline figures do not impose a cap on the amount of mineral development which can take place in Worcestershire.

Provision from extant sites

5.84 At the end of 2017 there was only one “active” site⁴⁴¹ in the county which works silica sand as an ancillary activity to the working of aggregate sand, and there is no publicly available information about the scale of the permitted silica sand reserves at this site. This site does not have industrial plant directly associated with it and instead supplies small individual foundries and other users and there is no indication that the operator of the current site wishes to invest in industrial plant to use silica sand.⁴⁴²

5.85 With only one active site, Worcestershire’s productive capacity for silica sand could be put at risk by commercial decisions or natural events at that single site. This means that there may be a need for additional sites to ensure the security of productive capacity in the county, and further permitted reserves may be required to support any proposed investment in or maintenance of new or existing plant and equipment.

Provision from new sites and alterations and extensions to extant sites

5.86 New sites, and alterations and extensions to existing sites may be necessary to ensure a steady and adequate supply of silica sand over the life of the plan.

5.87 Policy MLP 5 provides support to enable any necessary alterations to the development permitted at extant sites, subject to other parts of the Development Plan being satisfactorily addressed. Whilst some alterations to planning permissions for extant sites will not result in significant changes, some alterations may enable more efficient working or processing of minerals to support productive capacity, or may increase the amount of silica sand reserve permitted for extraction at a particular site.

5.88 Specific sites and/or preferred areas that contain silica sand may be allocated, as a small number of sites have been put forward for consideration which have the potential to contain silica sand alongside solid sand resources. Silica sand development on new sites, and extensions to existing sites (i.e. development beyond a site’s existing red line boundary) within the strategic corridors is also facilitated by the allocation of 41 areas of search as shown on Figure 4.1 (Key diagram) and defined on the Policies Map.⁴⁴³ The areas of search for silica sand are located within the North East Worcestershire and North West Worcestershire Strategic Corridors.

5.89 Development proposals for silica sand over the life of the plan are therefore expected to be on mineral allocations, and proposals for silica sand development on windfall sites either within or outside the strategic corridors will only be supported where they meet the tests set out in policy MLP 3 or policy MLP 4.

440 Worcestershire County Council (September 2018) *Silica Sand in Worcestershire*, available at www.worcestershire.gov.uk/mineralsbackground.

441 Wildmoor Quarry (formerly John Williams Cinetic Sand). ‘Active’ sites are permitted minerals sites in production for some time during the year.

442 Worcestershire County Council (September 2018) *Silica Sand in Worcestershire*, available at www.worcestershire.gov.uk/mineralsbackground.

443 41 areas of search are allocated for silica sand within the strategic corridors, representing 86.6% (by area) of the screened Wildmoor Sandstone Formation resources in Worcestershire. The Policies Map defines the Minerals Local Plan’s land-use designations and allocations and is available as part of an interactive minerals mapping tool at www.worcestershire.gov.uk/minerals.

Policy MLP 21: Delivering a Steady and Adequate Supply of Silica Sand

Contributing to:

Objectives MO1, MO5

Planning permission will be granted for minerals development proposals that will contribute to the steady and adequate supply of silica sand for industrial uses.

A level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards:

- a) maintaining a stock of permitted reserves at the individual silica sand site of at least 10 years, or at least 15 years at sites where significant new capital is required, to support investment in developing, maintaining or improving new or existing plant and equipment; and/or
- b) enabling Worcestershire's productive capacity for silica sand for industrial uses to be maintained or enhanced.

Reasoned justification

- 5.90 Policy MLP 21 requires an appropriate level of technical assessment to be submitted with each application for silica sand development. Such assessments should be undertaken by an appropriate and competent expert and should include sufficiently detailed site investigations and analysis to demonstrate the quantity and quality of the resource at the site, such as through details of boreholes and trial pits, highlighting the depth, type and distribution of the resource, differentiating between different phases of the development. This should demonstrate:
- how the proposed development would support actual or proposed investment in developing, maintaining or improving new or existing plant and equipment; and/or
 - the scale of the contribution the proposed development would make towards Worcestershire's productive capacity for silica sand. This may include details of proposed stockpiles where silica sand working is ancillary to aggregate extraction, the anticipated throughput and lifespan of a new site, extended working, or new plant, and/or the anticipated impact of amending planning conditions at existing sites.

Stocks of permitted reserves

- 5.91 A stock of permitted reserves of at least 10 years may be required at an individual site in order to support investment in developing, maintaining or improving new or existing plant and equipment. Site-specific circumstances and/or other policies in the development plan (including other policies in the Minerals Local Plan) may limit the total amount which can be extracted without causing unacceptable harm, whilst ensuring delivery of high-quality restoration and after-use is possible.
- 5.92 The technical assessment should clearly set out how the proposed development is linked to the capital investment required. A low stock of permitted reserves may be an indicator of urgent need, although each application will be considered on its own merits.

Contributing to productive capacity

- 5.93 In addition to maintaining stocks of permitted reserves, the Mineral Planning Authority needs to ensure sufficient productive capacity is maintained.
- 5.94 Worcestershire's overall productive capacity results from the number of active sites and their combined capacity to extract, process and sell minerals. The technical assessment required by policy MLP 21 should clearly set out the quality of the sand and the uses for which the material is suitable. It should set out the relationship between the silica sand resources and any solid sand resources and, where silica sand working will be ancillary to working of solid sands, outline how this will be managed so that any silica sand encountered alongside aggregate sand and gravel will be available for industrial purposes.



Stanley Evans sandpit which contained silica sand resources

- | | |
|--|---|
| <p>5.95 Productive capacity at an individual site is not directly related to the size of its permitted reserves. The contribution a site can make to the annual supply of materials (its productive capacity) can be directly limited by the maximum throughput of the site's processing plant, or indirectly through measures which seek to minimise or mitigate environmental or amenity impacts, such as limiting opening hours or the number of vehicle movements.</p> | <p>5.97 Policy MLP 21 requires proposals to demonstrate the contribution they will make to maintaining or enhancing Worcestershire's productive capacity. The assessment should include the anticipated throughput and lifespan of a new site or extended working, the anticipated impact of new plant or amending planning conditions at existing sites, and/or the market or end use for which the mineral is needed.</p> |
| <p>5.96 Worcestershire's productive capacity for silica sand is therefore likely to be maintained or enhanced through a combination of additional sites on mineral allocations and more efficient plant, machinery and working practices at existing sites. This is facilitated by the allocation of 41 areas of search for silica sand⁴⁴⁴ located within the North East Worcestershire and North West Worcestershire Strategic Corridors.</p> | <p>5.98 Even where there is considered to be sufficient productive capacity for silica sand supply overall, proposals which contribute to maintaining or enhancing that productive capacity will be supported, as they will help to ensure the resilience of the minerals supply chain in Worcestershire.</p> |

⁴⁴⁴ 41 areas of search are allocated for silica sand within the strategic corridors, representing 86.6% (by area) of the screened Wildmoor Sandstone Formation resources in Worcestershire.

Policy MLP 22: Scale of Building Stone Provision

Contributing to:

Objectives MO1, MO3, MO5

The Minerals Local Plan seeks to secure an adequate and diverse supply of building stone from indigenous resources.

- a) There is no information available to indicate the scale of provision required for building stone over the life of the plan, but demand for building stone resources may arise from conservation projects and/or new development.
- b) An adequate and diverse supply of building stone will be delivered from new developments:
 - i. Proposals for building stone development will be supported on areas of search within the North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors (see policy MLP 3).
 - ii. As the presence and distribution of building stone has not been instrumental to the definition of the strategic corridors, and the areas of search they contain for building stone are not extensive, proposals for building stone development on windfall sites either within or outside the strategic corridors will be supported where they meet the tests set out in policies MLP 3 or MLP 4.

Reasoned justification

Scale of provision

5.99 Worcestershire does not play a significant role in the supply of building stone and, at the end of 2017, there were no active building stone sites in Worcestershire. It is anticipated that demand may arise for building stone resources during the life of the plan for the repair and maintenance of historic buildings and structures, maintaining vernacular styles in new construction and for contemporary design requirements for new buildings⁴⁴⁶. This means that there is likely to be a need for building stone development over the life of the plan, but it is not possible to quantify this.

Provision from new sites

5.100 New sites will be crucial to delivering an adequate and diverse supply of building stone from indigenous resources over the life of the plan.

5.101 The allocation of specific sites and/or preferred areas for building stone is unlikely as no sites have been put forward for consideration. However, mineral development on new sites within the strategic corridors is facilitated by the allocation of 17 areas of search⁴⁴⁷ as shown on Figure 4.1 (Key diagram) and defined on the Policies Map and supported by policy MLP 3. These areas of search for building stone are located within the North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors. It is also acknowledged that variations in the specific appearance and characteristics of building stones may prevent those stones within mineral allocations being suitable for a particular project. Proposals for building stone development on windfall sites either within or outside the strategic corridors will therefore be supported where they meet the tests set out in policy MLP 3 or policy MLP 4. This might also include proposals to produce building stone alongside other types of mineral such as crushed rock aggregate.

445 For the purpose of this document, the term 'building stone' incorporates building, walling, roofing and dimension stones.

446 Worcestershire County Council (September 2018) *Building Stone in Worcestershire*, available at www.worcestershire.gov.uk/mineralsbackground.

447 17 areas of search are allocated for building stone within the strategic corridors, representing the screened former building stone quarries identified through the Herefordshire and Worcestershire Earth Heritage Trust's project *A Thousand Years of Building with Stone*, <http://www.buildingstones.org.uk/>.

Policy MLP 23: Delivering an Adequate and Diverse Supply of Building Stone

Contributing to:

Objectives MO1, MO3, MO5

Planning permission will be granted for minerals development that will contribute to achieving an adequate and diverse supply of building stone.

A level of technical assessment appropriate to the proposed development will be required to demonstrate the contribution the proposed development will make towards:

- a) Increasing or maintaining Worcestershire's stock of permitted reserves of building stone; and/or
- b) Enabling Worcestershire's productive capacity for different types of building stone to be maintained or enhanced.

Reasoned justification

5.102 Policy MLP 23 requires an appropriate level of technical assessment to be submitted with each application for building stone development. Such assessments should be undertaken by an appropriate and competent expert and should include sufficiently detailed site investigations and analysis to demonstrate the quantity and quality of the resource at the site. This may include details of boreholes and trial pits, highlighting the depth, type and distribution of the resource, and/or differentiating between different phases of the development, in order to clearly demonstrate the contribution the proposed development would make towards Worcestershire's stock of permitted reserves of the particular type of building stone and the contribution which the proposed development would make to maintaining and/or enhancing productive capacity.

Stocks of permitted reserves

- 5.103 A stock of permitted reserves of building stone would help to meet any demand for both the repair of heritage assets and for new development projects. There can be significant variations in the appearance and characteristics of building stone, even within the same broad stone type. Having a diverse stock of permitted reserves would enable industry to be responsive to the intermittent nature of demand for specific building stones. A relatively small stock of permitted reserves may be all that is required for the adequate supply of each type of material.
- 5.104 The technical assessment should clearly set out the types and amount of stone proposed to be worked. A low stock of permitted reserves for a particular type of building stone may be an indicator of urgent need, although each application will be considered on its own merits.

Contributing to productive capacity

- 5.105 In addition to maintaining stocks of permitted reserves, the Mineral Planning Authority needs to ensure sufficient productive capacity can be maintained.
- 5.106 Worcestershire's overall productive capacity results from the number of active sites and their combined capacity to extract, process and sell minerals. However, for building stone, the productive capacity for each type of stone is likely to be a more important factor than the overall productive capacity for building stone as a whole due to the significant variations in the type and use of materials from individual sites.
- 5.107 Productive capacity at an individual site is not directly related to the size of its permitted reserves. The contribution a site can make to the annual supply of materials (its productive capacity) can be directly limited by the maximum throughput of the site's processing plant, or indirectly through measures which seek to minimise or mitigate environmental or amenity impacts, such as limiting opening hours or the number of vehicle movements. Building stone quarries can be relatively small-scale and have a lower rate of extraction compared to other types of mineral working, and often continue in operation for a long period. They may be worked intermittently but intensively (campaign working), involving stockpiling of stone ready for sale. It should be noted that this intermittent demand may lead to stocks of permitted reserves remaining dormant for some time.
- 5.108 The technical assessment required by policy MLP 23 should clearly set out the types of stone proposed to be worked and should include the anticipated throughput and lifespan of the site.



Stockpiled Malvern Stone ready for re-use

5.109 Worcestershire's productive capacity for building stone will be maintained or enhanced through new development on mineral allocations and/or development on windfall sites within or outside the strategic corridors. This is facilitated by the allocation of 17 areas of search⁴⁴⁸ within the North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors and support for building stone development on windfall sites either within or outside the strategic corridors where they meet the tests set out in policy MLP 3 or policy MLP 4.

5.110 Even where there is considered to be sufficient productive capacity for building stone supply overall, proposals which contribute to maintaining or enhancing productive capacity for different types of building stone will be supported, as they will help to ensure the resilience of the minerals supply chain in Worcestershire.

5.111 Stockpiling of building stone as it arises from ground works or the demolition of existing structures may also help to ensure the availability of building stone, but this may need to be considered against Policy MLP 13 or the Waste Core Strategy.

448 17 areas of search are allocated for building stone within the strategic corridors, representing the screened former building stone quarries identified through the Herefordshire and Worcestershire Earth Heritage Trust's project *A Thousand Years of Building with Stone*, <http://www.buildingstones.org.uk/>.

Other locally and nationally important industrial minerals

Policy MLP 24: Supply of Other Locally and Nationally Important Industrial Minerals

Contributing to:

Objectives MO1, MO5

Planning permission will be granted for minerals development that will contribute to the supply of other locally and nationally important industrial mineral resources.

A level of technical assessment appropriate to the proposed development will be required to demonstrate that the development would meet a local or national need.

Reasoned justification

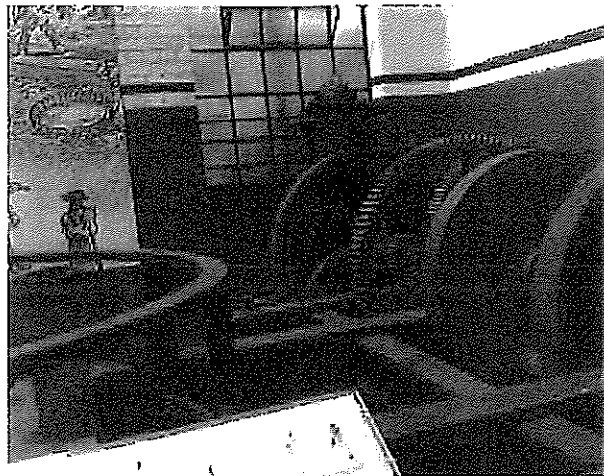
5.112 Other mineral deposits exist within Worcestershire, such as Halite (salt) and brine, and it is possible that over the plan period, applications may come forward to work other types of industrial mineral deposits which were either not known to exist at the time the plan was developed, or for which there was not sufficient evidence that they should be considered to be a mineral resource of national or local importance. Policy MLP 24 enables the supply of industrial minerals to take place.

5.113 At the end of 2017, there was one extant site for the small-scale extraction of brine in Worcestershire, located in the centre of Droitwich, and no sites with permitted reserves for any other locally or nationally important industrial minerals.

5.114 The allocation of specific sites and/or preferred areas for other industrial minerals is not anticipated as no sites have been put forward for consideration, and no areas of search have been allocated. Other than the potential for proposals to amend the existing brine working, any development proposals for other locally and nationally important industrial minerals over the life of the plan will therefore be supported on windfall sites either within or outside the strategic corridors where they meet the tests set out in policies MLP 3 and MLP 4.

5.115 Policy MLP 24 requires an appropriate level of technical assessment to be submitted with each application. Such assessments will be expected to contain a level of detail proportionate to the proposal submitted, with sufficiently detailed market information to demonstrate that the need for the mineral resource is sufficient for it to be considered of local or national importance,

and sufficiently detailed site investigations and analysis, undertaken by an appropriate and competent expert, to demonstrate the quantity and quality of the resource at the site, such as through details of boreholes and trial pits, highlighting the depth, type and distribution of the resource, differentiating between different phases of the development, in order to demonstrate that the resource would be capable of meeting the identified need.



Preserved historic brine pumping station, Droitwich

Energy minerals supply

Policy MLP 25: Supply of Energy Minerals

Contributing to:

Objectives MO1, MO5

- a) Planning permission will not be granted for the extraction of coal or related development unless it is demonstrated that the proposed development is either:
 - i. environmentally acceptable; or
 - ii. will provide national, local or community benefits which clearly outweigh the likely impacts.
- b) Planning permission will be granted for on-shore oil and gas development using either conventional or unconventional methods within areas licensed for oil and gas exploration or production. A level of technical assessment appropriate to the proposed development will be required to clearly distinguish between exploration, appraisal and production phases.

Reasoned justification

- 5.116 There are no known locally or nationally important energy mineral resources within Worcestershire. As such, the Minerals Local Plan does not set supply targets or delivery milestones for them, and there are no areas of search allocated for energy minerals within the strategic corridors.
- 5.117 Although coal deposits exist in Worcestershire, there has been no working of coal in Worcestershire since the 1970s and, at the end of 2017, there were no sites with permitted reserves of coal in Worcestershire. The coal deposits in the county are not considered by the Coal Authority to be a commercially viable resource.⁴⁴⁹ Any development proposals for coal over the life of the plan will therefore be on windfall sites either within or outside the strategic corridors, subject to the tests set out in policies MLP 3 and MLP 4. National policy is clear that planning permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.⁴⁵⁰
- 5.118 There are no known oil or gas resources in Worcestershire and no blocks were licensed in or near to Worcestershire under the government's 14th Onshore Oil and Gas Licensing Round.⁴⁵¹ Should onshore oil and gas resources be discovered in the county, they would need to be licensed by government under future Onshore Oil and Gas Licensing Rounds before they could be proposed for development and may be acceptable either within or outside the strategic corridors, subject to the tests set out in policies MLP 3 and MLP 4.
- 5.119 Policy MLP 25 does not seek to enable coal extraction, and oil and gas development is considered unlikely due to the absence of licensed resources in the county. However, should any planning applications be put forward, they will be expected to contain a sufficient level of detailed information, prepared by an appropriate and competent expert, to justify how the proposed development would contribute to the sustainable supply of energy minerals when considered against the tests of national policy and the Development Plan as a whole.

⁴⁴⁹ Worcestershire County Council (September 2018) *Coal mining in Worcestershire*, available at www.worcestershire.gov.uk/mineralsbackground.

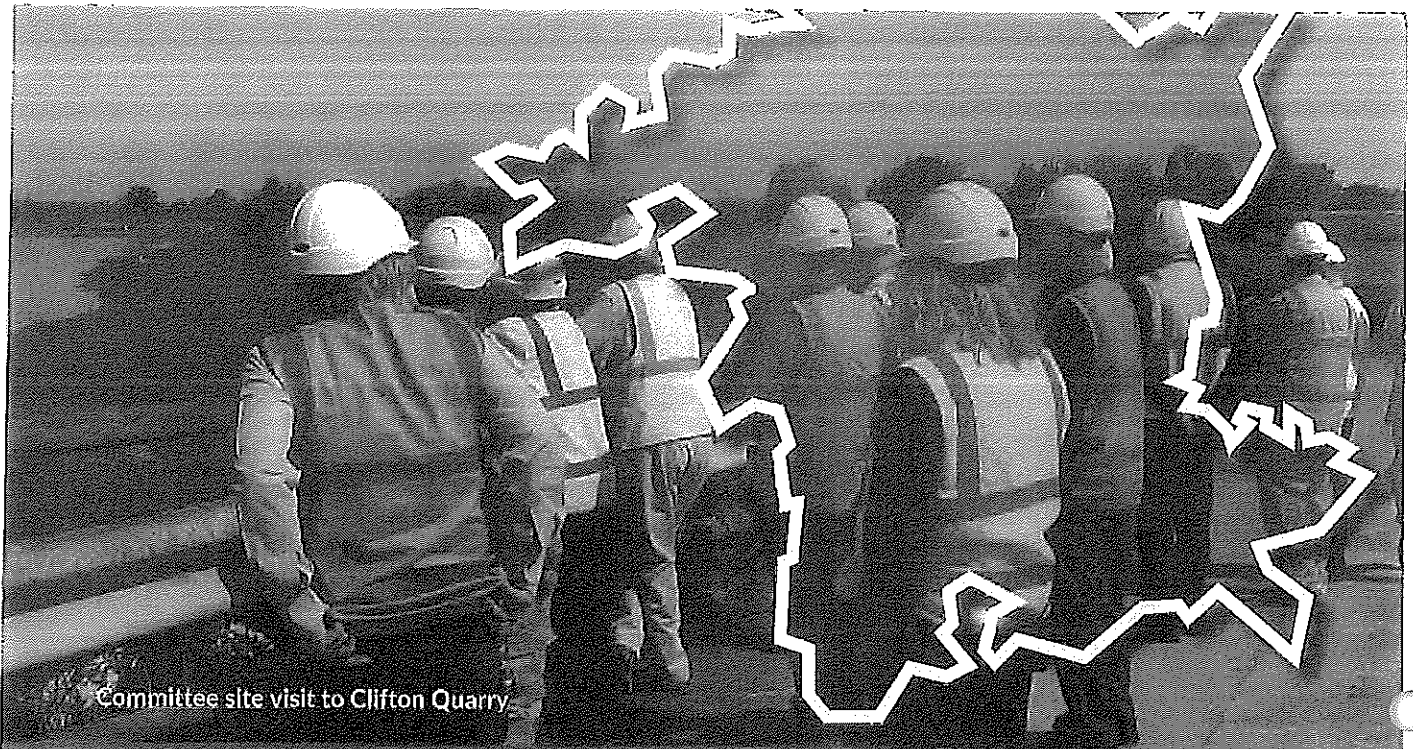
⁴⁵⁰ Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 217.

⁴⁵¹ Information about the Onshore Oil and Gas Licensing Rounds is available at <https://www.ogauthority.co.uk/licensing-consents>.



Carbonaceous material at Berrow Hill (courtesy of Herefordshire and Worcestershire Earth Heritage Trust)

- 5.120 Proposals for coal should clearly set out the reasons the proposed development is considered to be environmentally acceptable, or provide details of the national, local or community benefits which are considered to outweigh the impacts of the development and how these benefits will be secured as part of the development.
- 5.121 Proposals for oil and gas should distinguish between exploration, appraisal and production phases when setting out the processes proposed and their likely effects.



Committee site visit to Clifton Quarry

6. Development management (non-strategic policies)

Introduction

- 6.1 The policies in this development management chapter seek to protect people, places and the environment from potential negative impacts from mineral development and to ensure that positive gains are maximised. The issues addressed in policies MLP 26 to MLP 40 will need to be considered in developing proposals and should influence the design, layout, working methods and restoration proposals for the site. They will be considered by decision makers alongside other parts of the Development Plan (including other policies within the Minerals Local Plan) to ensure that proposals will contribute to the achievement of sustainable development.
- 6.2 The potential for different impacts and benefits, and the management and mitigation measures that are appropriate, will vary according to the nature, size, location and duration of a development, and will change over the life of a mineral site. Good design is a key aspect of sustainable development, creating better places in which to live and work, and helping to make development acceptable to communities. With appropriate site design, working methods and mitigation measures in place it is usually possible to adequately manage impacts and to deliver enhancement. In some cases, judgement will be required about the balance between the importance of the mineral to be worked and the likely impacts of the proposal.
- 6.3 The Minerals Local Plan policies cover the administrative area of Worcestershire, but it is recognised that a development's impacts may be felt further afield, even if applications do not cross the county boundary. Applications should make clear the physical extent of any impacts (both positive and negative) as well as their significance. Net gain both within and extending beyond the county boundary is welcomed and will be considered favourably.

Efficient use of resources

Policy MLP 26: Efficient Use of Resources

Contributing to:

Objectives MO1, MO3, MO5, MO6

Mineral development will be permitted where it is demonstrated that the proposed development will make efficient use of natural resources.

A level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime, the proposed development will:

- a) minimise use of water and energy in buildings, plant and transport;
- b) optimise on-site energy generation from renewable and low-carbon sources; and
- c) balance the benefits of maximising extraction with any benefits of allowing sterilisation of some of the resource, taking account of:
 - i. the need for the mineral resource;
 - ii. the ability to deliver the relevant strategic corridor priorities;
 - iii. the ability to provide a stable and appropriate landform for beneficial after-use;
 - iv. the ability to deliver high-quality restoration at the earliest opportunity;
 - v. the appropriateness of importing fill materials on to site, and the likely availability of suitable fill materials;
 - vi. the need to protect and enhance inherent landscape character; and
 - vii. the need to manage or mitigate impacts on the built, historic, natural and water environment and amenity.

Reasoned justification

6.4 Minerals are essential to support sustainable economic growth and our quality of life. They are a finite natural resource and it is important to make best use of them to ensure resources remain available for future use. Mineral development needs to be designed, worked and restored in a way that ensures minerals are extracted efficiently whilst ensuring that safe, high-quality restoration and after-use is achieved. The working, processing and transportation of minerals can also be energy- and water-intensive. Reducing resource use and optimising on-site energy generation can play an important role in mitigating climate change impacts.

Water and energy efficiency

6.5 The winning and working of minerals can require significant amounts of water and energy. The Mineral Planning Authority will expect

energy and water efficiency measures to be incorporated in plant, buildings and transport. For the operator, resource efficiency can provide cost savings as well as reduced carbon emissions.

6.6 Washing and processing minerals can be water intensive. Measures such as water recirculation and capturing any run-off from buildings or hardstanding for use on site can help to reduce the overall demand for water within operations. Good site design can help with the management of stockpiles⁴⁵² and reducing transport movements around the site.

6.7 Buildings and plant should be designed to minimise energy use by utilising landform, layout, building orientation, massing and landscaping. Opportunities should be sought to maximise energy efficiency and minimise carbon emissions from processing, heating and drying of materials and from running

452 Keeping stockpiles drier or allowing natural drying of wet minerals can significantly reduce energy demands for processing and transport.

machinery, motors and drives.⁴⁵³ The use of low-emission vehicles⁴⁵⁴ where appropriate and ensuring plant, vehicles and conveyors are well maintained and operated in an efficient manner can help to reduce energy demands.

6.8 Policy MLP 26 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should take account of requirements for plant, buildings and transport throughout the life of the site. Assessments should:

- identify the site processes which require water and energy;
- estimate the total amounts of water and energy that will be required per annum; and
- include details of the technology, design, working methods and any other mitigation measures considered and set out how the chosen combination will minimise water and energy use.

Energy generation

6.9 Opportunities to use locally generated renewable or low-carbon energy for extraction, processing and transport operations as well as for lighting, heating and cooling buildings, should be explored as this can make a valuable contribution to cutting greenhouse gas emissions. Renewable or low-carbon energy options might include conventional building-mounted sources, but might also make use of opportunities over the wider site, such as open-loop ground source or surface water source heating and cooling systems.

6.10 Policy MLP 26 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should take account of the whole life of the site. Assessments should:

- Identify the potential opportunities for on-site renewable and low-carbon energy production. This should consider the life-cycle of any potential plant in relation to the life of the proposed development, as any plant installed may need to be removed as part of the restoration of the site.
- Give details of the renewable energy

generation measures proposed and why these are considered to be the optimal solutions for the site. This might include reference to limitations imposed by working and restoration phases or other Development Plan policies.

- Set out the total amount of energy expected to be produced from the proposed renewable and low-carbon sources and the proportion of the site's energy requirements that this would supply.
- In any cases where on-site renewable energy generation is not considered to be appropriate or practicable, justify why this is the case.

Optimising the amount of mineral resources won and worked from the site

6.11 The primary purpose of the Minerals Local Plan and minerals development is to enable the supply of mineral resources, but there is a balance to be struck between enabling supply and delivering the wider objectives of the plan. Whilst there is a need to avoid undue sterilisation of mineral resources, in some cases it may be necessary to limit the amount of mineral resource extracted in order to avoid other unacceptable harm or to ensure delivery of safe, high-quality working, restoration and after-use.

6.12 Designing an achievable site restoration scheme is a crucial aspect of sustainable mineral development and, without such a scheme, planning permission will not be granted for mineral working.⁴⁵⁵ High-quality restoration should take place at the earliest opportunity, and appropriate aftercare should be put in place⁴⁵⁶. In most cases, this will mean phased working and restoration across the site, thereby minimising the area of land occupied by mineral working at any one time. This can help to give communities confidence that high-quality restoration is taking place, can help to minimise any cumulative impacts that may arise from the development itself and/or from other existing or proposed development, and can enable green infrastructure benefits to be realised or commercial use of the land to be resumed during the life of the wider site.

453 Carbon Trust, *Mining and quarrying: Carbon saving and energy efficiency advice for the mining and quarrying sector*, <https://www.carbontrust.com/resources/guides/sector-based-advice/mining-and-quarrying>.

454 Including non-fossil fuels and electric vehicles.

455 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals*, paragraph: 039 Reference ID: 27-039-20140306 Revision date: 06 03 2014.

456 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 210(h).

6.13 Designing and delivering a landform that will enable the beneficial after-use of a site, which is appropriate within the local context, and which enables delivery of the relevant strategic corridor priorities is fundamental to the overall design of mineral sites. The Mineral Planning Authority welcomes innovative design that enhances the area and responds positively to local priorities, whilst maximising the extraction of mineral resources and ensuring the proposed working and restoration schemes will be deliverable.

6.14 Physical and policy constraints on importing fill materials for restoration purposes, and a potential lack of suitable materials are likely to be significant factors in how sites are designed and worked in Worcestershire. The availability of fill materials may also differ across the county, depending on the scale and type of development taking place nearby. This is likely to mean that many sites will need to be worked in a different way than in the past to minimise the need to bring in materials for backfilling, particularly in relation to working solid sand and brick clay, which has historically resulted in deep, steep-sided pits which were then restored by landfilling.

6.15 The potential sterilisation of mineral resources will not be considered adequate justification for schemes which would result in unacceptable impacts or unacceptable final landforms.

6.16 The backfilling of quarries should not create unacceptable instability risks. Backfilling with overburden, mineral waste materials and any other material or waste used in restoration should be planned and delivered to minimise the risk of unacceptable differential settlement.



Conveyor at Clifton Quarry

6.17 Subsidence occurs through the loss of support beneath the surface of the ground, and the level of risk is likely to depend on the nature of the underlying geology. Fine particles in sand and gravel are susceptible to being washed away by water, and loosely packed sand under the water table acts in a similar way, moving into any voids surrounding it. Limestone can be dissolved over time by running water, creating voids that can collapse and cause swallow holes. Clays can expand and contract with wetting and drying, causing heave and subsidence, and rock can become compressed and collapse in on itself. Coal mining legacy features and hazards have been identified in Worcestershire by the Coal Authority, focused in the north-west of the county, and may present a constraint on development or provide an opportunity for prior extraction of any remnant surface coal as part of remedial measures to address unstable land. Rock salt can dissolve to form brine, and subsidence associated with historic brine extraction was experienced in and around Droitwich Spa.

6.18 Policy MLP 26 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should:

- Outline the need for the mineral, drawing on the latest available supply and demand data for that type of mineral at the county level, considering the latest Local Aggregate Assessment,⁴⁵⁷ Authority Monitoring Report⁴⁵⁸ and other relevant evidence, as well as any cross-boundary and wider demands.
- Set out details of the proposed after-use of the site and the landform required to enable that after-use. This should consider how the proposed landform will respond to the inherent landscape character and deliver the relevant strategic corridor priorities and any local economic, social and/or environmental benefits.
- Set out any environmental or amenity constraints and how these will influence site working and/or restoration. This might include measures such as stand-off zones between working areas and sensitive receptors or environmental assets, or limiting the depth of working or wet working of mineral resources at sites that are vulnerable to changes in the water table.

457 Worcestershire's Local Aggregate Assessments are published alongside the Authority Monitoring Report at www.worcestershire.gov.uk/amr.

458 Worcestershire's Authority Monitoring Reports are available at www.worcestershire.gov.uk/amr.

- » the requirements of other policies in the Minerals Local Plan and the Development Plan as a whole;
 - » how progress towards delivering the final landform can be ensured from the outset through site design and working methods; and
 - » the practicalities of working and processing in relation to the type of operation and nature of the site.
 - » Any proposals that do not include phased or progressive restoration will require robust justification.
 - » Demonstrate the measures to be used to ensure that quarry sides and slopes remain stable and will not result in landslip, either within the site or in the surrounding area, both during and after the lifetime of the development. Quarry slopes and tip slopes should be constructed and accessed to minimise any risk of danger through instability. Where there is any likelihood of instability, a stability report should be provided setting out appropriate measures to ensure the continued stability and integrity of any slopes within the site, including appropriate gradients and management of run-off. Planting slopes with suitable vegetation can assist with stability and can provide environmental benefits. Where risks of instability cannot be adequately mitigated, there may be a need to leave some parts of the site unworked, or to allow for margins within or around the site.
 - » Carry out an investigative assessment where minerals that are prone to the movement outlined in paragraph 6.17 are proposed to be extracted. This should demonstrate that the proposed methods for working the site would not result in risk of subsidence within the site or in the surrounding area, both during and after the lifetime of the development.
 - » Consider whether any backfilling will be required in order to achieve the proposed landform. If backfilling is proposed, the assessment should estimate the volumes of material which would be required at each phase and set out the anticipated sources of backfill materials. The use of materials from within the site (such as overburden and subsoils) should be prioritised before considering the use of imported materials, and the assessment should set out any potential physical and/or policy constraints which would prevent or limit the importation of backfill materials, such as the suitability and capacity of transport infrastructure, impacts on water quality and local amenity, and the legislation, policy, and/or permitting issues concerning landfill.
 - » Where the use of imported materials is proposed, potential sources of suitable materials (such as other development projects) should be identified within an economically viable distance for transporting materials, and the assessment should refer to the scale, timing and levels of certainty around those projects, and whether there are likely to be other demands for those materials (such as other quarry restorations) which could prevent the proposed restoration scheme being delivered.
 - » Clearly conclude why, taking into account the balance of considerations in the above points and the priorities of the relevant strategic corridor, the proposed strategy is considered to be the optimal solution for the site.
- 6.19 Where the proposal is for changes to working and/or restoring an existing permitted site, the assessment should demonstrate that any previously agreed restoration and aftercare requirements will not be compromised. Proposals that seek to vary previously permitted restoration and aftercare schemes should demonstrate why the proposed changes are necessary and how the revised scheme will achieve the same or increased environmental, social and economic betterment as the permitted scheme.



Landscaping as part of site restoration at Ball Mill Quarry, Grimley

Green Belt

Policy MLP 27: Green Belt

Contributing to:

Objective MO3

- a) Mineral extraction and/or engineering operations within the Green Belt 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.

* Green Belt policy on inappropriate development, and development that may not be inappropriate, is set out in Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraphs 147-151.

Reasoned justification

6.20 The Green Belt extends across north-east Worcestershire, covering almost a quarter of the county. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt are its openness and permanence.⁴⁵⁹

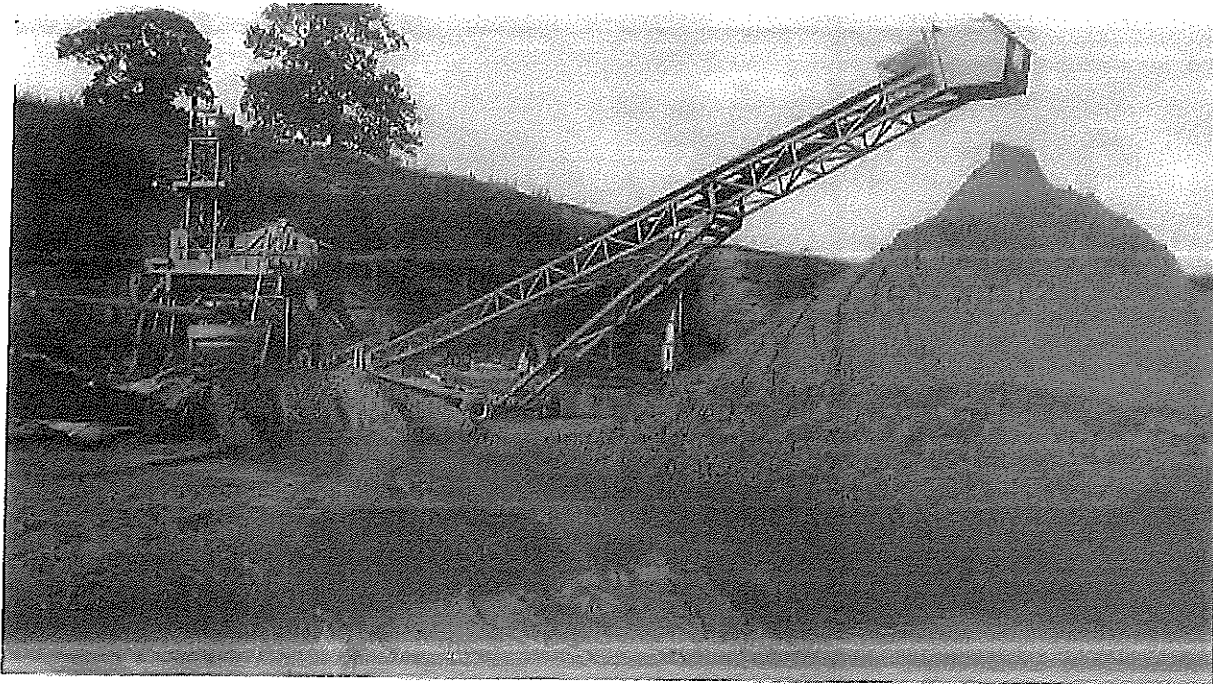
6.21 A range of mineral resources exist within the Green Belt, and there is overlap between areas of Green Belt and three of the strategic corridors.⁴⁶⁰ It is therefore likely that minerals development proposals within the Green Belt will come forward during the life of the Minerals Local Plan. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Mineral extraction and engineering operations are two forms of development that are not inappropriate in the Green Belt, provided that they preserve the Green Belt's openness and do not conflict with the purposes⁴⁶¹ of including land within the Green Belt. However, where mineral extraction and engineering operations do not preserve the openness of the Green Belt or conflict with its purposes, they will be inappropriate. Other aspects of mineral development may also be inappropriate. Where this is the case, very special circumstances will need to be demonstrated for such mineral development to be considered acceptable.

459 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 137.

460 Salwarpe Tributaries Strategic Corridor, North East Worcestershire Strategic Corridor and North West Worcestershire Strategic Corridor. The strategic corridors and the Green Belt can be viewed on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals.

461 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 138 states that Green Belt serves five purposes:

- 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.



Processing solid sand at Wildmoor Quarry, near Bromsgrove

- 6.22 Policy MLP 27 requires an appropriate level of technical assessment to be submitted with each application within the Green Belt. Such assessments should be undertaken by an appropriate and competent expert, should be proportionate to the nature, location and size of the proposed development and the potential harm it could have on the Green Belt, and should:
- identify how the proposed development (including enabling and ancillary works, such as access routes, in addition to the main working area) would affect the characteristics and purposes of the Green Belt at all stages of the site's life;
 - identify which parts of the proposed development, if any, constitute inappropriate development in the Green Belt; and
 - if the proposed development or any part of it would be inappropriate development, set out the very special circumstances that exist to justify the development. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.23 Very special circumstances will need to be considered on a case-by-case basis and will depend on the circumstances of any proposed development.
- 6.24 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. 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.⁴⁶² As minerals development is a temporary use of land, this may be relevant to the impact on openness.
- 6.25 National policy⁴⁶³ requires local planning authorities to "plan positively to enhance the beneficial use of the Green Belt". Minerals development and, especially, the restoration of workings, may be capable of enhancing one or more of these beneficial uses and should be guided by the green infrastructure priorities of the relevant strategic corridor. These opportunities will not negate the need to comply with protective Green Belt policy.

462 Planning Practice Guidance states that "Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – In other words, the visual impact of the proposal may be relevant, as could its volume;
- 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." Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Green Belt*, paragraph: 001 Reference ID: 64-001-20190722 Revision date: 22 07 2019.

463 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 145 states that "Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land".

Amenity

Policy MLP 28: Amenity

Contributing to:

Objectives MO4, MO5

Planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on amenity or health and well-being.

A level of technical assessment appropriate to the proposed development 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 not cause unacceptable harm to sensitive receptors from:

- a) dust;
- b) odour;
- c) noise and vibration;
- d) light;
- e) visual impacts; and/or
- f) contamination.

Reasoned justification

6.26 Mineral sites can cause concern to local communities because of possible disturbance or harmful effects on people's amenity, health and well-being, and living and working environments. Securing a high standard of amenity is fundamental to creating well-designed development⁴⁶⁴ and policy MLP 28 seeks to ensure that minerals developments are planned, managed and restored in a way that protects people and other sensitive receptors from unacceptable effects on amenity or health and well-being. The method, phasing and lifespan of mineral workings, their distance to sensitive receptors, and their relationship to their locality will influence the nature and likelihood of such impacts.

6.27 Policy MLP 28 addresses a broad range of issues which should be considered to ensure there are no unacceptable adverse effects on the amenity or health of communities. The policy requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should be proportionate to the nature, location and

size of the proposed development and the significance of its effects. The assessments will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area, and will need to consider the impacts which might occur at all stages of the site's life. For each of the issues identified in policy MLP 28, the assessment(s) should:

- identify the sensitive receptor(s)⁴⁶⁵ which may be affected by the proposed development;
- quantify the extent of potential impacts at each stage of the proposed development in relation to the baseline conditions, taking account of how the local context (such as topography, watercourses and water features, and man-made structures and infrastructure including roads, railways and waterways) will influence any potential impacts or pathways for effects;
- consider the potential for cumulative impacts from the development itself and/or from other existing or approved development;

⁴⁶⁴ Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 130(f).

⁴⁶⁵ Sensitive receptors are defined in the glossary.

- demonstrate the measures which would be implemented to ensure adverse impacts would be avoided at source or, where this is not possible, outline the proposed management and mitigation measures to reduce effects to an acceptable level; and
 - identify the significance of any residual effects.
- 6.28 The form which such technical assessments should take will depend on the scale and nature of the proposed development, and in some cases issues may be addressed through an Environmental Impact Assessment. Where there are expected to be significant health impacts,⁴⁶⁶ a Health Impact Assessment (HIA)⁴⁶⁷ can be a useful tool to enhance the positive aspects of a proposal through assessment, while avoiding or minimising any negative impacts, with particular emphasis on disadvantaged sections of communities that might be affected.
- 6.29 Developers are expected to proactively monitor impacts and emissions throughout the life of the site to enable issues to be addressed swiftly. Close liaison with communities can help to identify issues and enable feedback and dialogue on the need for and effectiveness of any mitigation measures.
- 6.30 A wide range of amenity impacts can be mitigated through appropriate site design and layout and the use of the surrounding topography. Complementing the existing features of the natural environment can also deliver wider multifunctional benefits. A common approach to mitigating amenity impacts is to include tree planting or natural screening; this can deliver landscape, biodiversity, and water environment benefits where proposals are influenced by the local context, and should be incorporated in a way which responds to the relevant strategic corridor priorities (see MLP 7 to MLP 12). Other mitigation measures could be realised through considerate site design and working practices including, but not limited to, locating working areas, plant, machinery or haulage routes away from sensitive receptors; fitting plant with silencers; sheeting of lorries and cleaning of wheels before vehicles exit the site; or limiting working hours.

Dust

- 6.31 Dust can arise from extraction activities, the operation of processing plant, haulage vehicles and conveyors, and the storage of minerals and soils, where dust can be windblown from stockpiles. There may be temporary impacts from some phases of development, such as site preparation works, soil stripping, or restoration works. If not properly controlled at source, dust can cause nuisance to people and businesses, and harm through deposition on property.
- 6.32 A dust assessment will be required where dust emissions are likely to arise from a development. The assessment should take account of the location of the source of dust and the surrounding land uses as well as local factors that might affect the dispersal of dust, including topography, the nature of the landscape, and local wind patterns. Atmospheric dispersion modelling may be required to determine whether there is a risk of health effects due to dust emissions. Where necessary, mitigation proposals should be outlined. These might include the design, layout and phasing of operations to increase the distances between sources of pollution and potential receptors, locating dusty operations downwind of receptors, or using planting and screening to absorb pollutants. Working practices such as wheel washing, damping haul roads and sheeting of lorries can also be effective.

Odour

- 6.33 Mineral sites are unlikely to be a source of odour. However, there is some potential for odours to arise from on-site water bodies, such as settlement and silt lagoons, or areas of water that are poorly designed or managed. Applications should identify any potential odour sources and demonstrate how they will be managed effectively to prevent unacceptable effects occurring.

⁴⁶⁶ Worcestershire County Council (March 2016) *Health Impact Assessments in Planning Toolkit* advocates undertaking health impact screening to determine whether significant health impacts are likely to arise, prior to scoping the extent of any assessment which may be required. The toolkit is available at http://www.worcestershire.gov.uk/info/20122/joint_strategic_needs_assessment.

⁴⁶⁷ Health Impact Assessment (HIA) is a process to predict the health implications on a population of implementing a plan, policy, programme or project, aiding the decision-making process.



Wheel washing facility at Clifton Quarry

Noise and vibration

- 6.34 The introduction of sources of noise or vibration can impact on the use, enjoyment and tranquillity of a locality, and can cause an intrusion that can adversely impact on quality of life, health and well-being.^{468 469}
- 6.35 Potential sources of noise within typical mineral operations include extraction activities and the operation of processing plant, haulage vehicles and conveyors. Activities such as soil-stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, the construction of new permanent landforms, and aspects of site road construction and maintenance may also be noisy in the short term. Each source of noise might have a different characteristic and intensity, and could be capable of causing significant impacts if not properly controlled. After-uses also have the potential to introduce or alter the source, type or level of noise arising from the site.
- 6.36 Vibration associated with mineral operations is principally caused by vehicle movements, particularly over uneven surfaces. Blasting can be used at some crushed rock workings and can cause both ground vibration and air overpressure.

- 6.37 An assessment will be required where there are likely to be impacts from noise or vibration. This should identify potential sources of noise and vibration, their general character and the location of noise-sensitive or vibration-sensitive receptors, including properties. Reference should be made to the types and levels of noise or vibration, the time of day noise or vibration will occur, whether they will be continuous or intermittent and the pattern and duration of their occurrence, as well as the prevailing acoustic environment and local factors such as topology and topography.⁴⁷⁰
- 6.38 Where noise or vibration impacts are identified, mitigation measures should be incorporated to ensure that effects are managed to an acceptable level. This might include appropriate design, layout and phasing of operations to increase the distances between the source of noise and potential receptors or to minimise noise transmission through the use of screening by natural barriers, planting or purpose-built features. Setting noise limits at sensitive properties, controlling working hours, and/or monitoring of noise conditions at mineral workings could also safeguard against disturbance from the site.⁴⁷¹

⁴⁶⁸ Defra (2010) *Noise Policy Statement for England*.

⁴⁶⁹ Tranquil areas which have remained relatively undisturbed by noise, and are prized for their recreational and amenity value for this reason, may be identified and protected. At the time the Minerals Local Plan was submitted to the Secretary of State, there were no designated tranquil areas within Worcestershire but it is possible that such areas may be identified for protection during the life of the plan.

⁴⁷⁰ Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Noise* (Revision date: 06 03 2014) and Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals* (Revision date: 17 10 2014).

⁴⁷¹ Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals* (Revision date: 17 10 2014).

- 6.39 Where noise impacts cannot be avoided it may be appropriate to allow temporary increases in daytime noise to facilitate essential site preparation or restoration works; however, clear long-term benefits would need to be demonstrated.⁴⁷²

Light

- 6.40 Insensitive use of lighting that causes glare, unnecessary light spillage beyond site boundaries and sky glow can annoy people, undermine enjoyment of the countryside, and detract from appreciation of the night sky.⁴⁷³
- 6.41 Certain areas of a mineral site, such as the processing plant and/or stockpiling areas, are likely to require lighting, particularly during winter months and in poorer light conditions. Lighting may also be required during restoration or as an element of after-use.
- 6.42 A lighting assessment will need to identify whether proposals for lighting materially alter light levels outside the development. This should consider the type, brightness, position, height, alignment, intensity and periods of use of luminaires. Consideration should be given to impacts on the use and enjoyment of other land uses and impacts on intrinsically dark landscapes. Proposals should demonstrate how light pollution will be avoided or managed to an acceptable level. Mitigation measures might include directional lighting, limiting working hours, or screening areas of the site with appropriate planting.

Visual impacts

- 6.43 In planning law, no individual has the right to a particular view. However, in some cases, a change to the local or wider landscape may have the potential to materially harm visual amenity. The visual impact of mineral development will depend on the nature of the working, the location of the site, its context within the topography and form of the landscape and the degree to which any working faces, plant and haul routes or conveyors are visible or intrusive in the landscape.
- 6.44 Where visual impacts are likely, an assessment will be required to assess the significance and effects of changes to views and visual amenity as a result of the proposed development. The assessment should consider working proposals, the degree of visual exposure, screening, and proposed after uses. This assessment may form part of a holistic Landscape and Visual Impact Assessment. It should identify sensitive landscape receptors, and sensitive visual receptors, such as residential properties or public rights of way, and consider how they might be affected by visual impacts from the development throughout its phases. Changes in specific views and people's experience of general visual amenity should be considered.⁴⁷⁴
- 6.45 It may be possible to minimise or mitigate effects through considerate design and phasing of the development and using planting to screen or filter views. Care should be taken to ensure that screening measures are appropriate and are not, in themselves, a source of visual intrusion. It is likely that, as part of site restoration, there will be a requirement to remove incongruous features such as bunds or security fencing.

472 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Minerals*, (paragraph: 022 Reference ID: 27-022-20140306 Revision date: 06 03 2014) advises that this would be for periods of up to 8 weeks in a year.

473 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Light Pollution* (Revision date: 06 03 2014).

474 Landscape Institute (2013) *Guidelines for Landscape and Visual Impact Assessment* (Third edition).



Safety warning at a working sand and gravel site

Contamination

- 6.46 There is potential for minerals development to involve the storage and use of fuels, explosives and other hazardous substances⁴⁷⁵. This could result in hazards to or contamination of land and water if storage and plant areas are not appropriately designed and managed. On minerals sites, fuels and chemicals are most commonly stored in plant areas and used in the operation and maintenance of sorting and processing plant, haulage vehicles, and conveyors. Explosives may be used for blasting at some crushed rock sites.
- 6.47 Applications should identify any proposals for the use or storage of hazardous substances and any other potential sources of pollution, the pathways through which contamination could travel, and sensitive receptors that could be affected. This should inform any mitigation proposals. Mitigation measures commonly include areas of hardstanding or containment bunds around storage areas. The potential impact of flooding or severe weather events should be taken into account.
- 6.48 Hazardous substances consent may also be required. The hazardous substances consent process ensures that necessary measures are taken to prevent major accidents and limit their consequences to people and the environment where there is considered to be a major off-site risk. This is separate to the planning regime.⁴⁷⁶

475 As defined by *The Planning (Hazardous Substances) Regulations 2015*.

476 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Hazardous substances* (Revision date: 28 07 2017).

Air Quality

Policy MLP 29: Air Quality

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on air quality, and will help secure net improvements in overall air quality where possible.

A level of technical assessment appropriate to the proposed development 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) not cause unacceptable harm to sensitive receptors, sensitive habitats, or designated sites of importance for biodiversity from air quality. Particular consideration will need to be given to air quality impacts in or impacting upon areas where air quality is known to be poor, such as designated Air Quality Management Areas (AQMAs) or areas that are at risk of designation; and
- b) deliver improved air quality even when legally binding limits for concentrations of major air pollutants are not being breached, unless it is clearly demonstrated that this is not possible.

Reasoned Justification

6.49 Increases in air pollutants can have harmful effects on human health and the environment. Mineral sites can cause concern to local communities because of possible impacts on air quality. Air quality impacts from mineral development are most likely to arise as a result of emissions from plant and processing equipment or from the impact of associated transport movements. There may also be temporary impacts from some phases of development, such as site preparation or restoration and plant construction.

6.50 Policy MLP 29 seeks to ensure that mineral developments are planned, managed and restored in a way that protects people and other sensitive receptors⁴⁷⁷, sensitive habitats,⁴⁷⁸ and designated sites of importance for biodiversity⁴⁷⁹ from unacceptable effects on air quality. The method, phasing and lifespan of mineral workings, their distance to sensitive receptors and land uses, and their relationship to their locality will influence the nature and likelihood of such impacts.

6.51 Policy MLP 29 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should be proportionate to the nature, location and size of the proposed development and the significance of its effects. Assessments should:

- Establish the baseline local air quality, including the identification of any locations where air quality is or is likely to be a concern.
- Identify likely changes to air quality throughout the life of the development, including any changes in vehicle-related emissions resulting from the development, and any new point sources of air pollution during all phases of development. Where impacts are likely to result from transport movements this should consider traffic impacts in the immediate vicinity of the proposed development site and further afield.

⁴⁷⁷ Sensitive receptors are defined in the glossary.

⁴⁷⁸ Sensitive habitats are those habitats that are sensitive to changes in air quality. There is no definitive list or map of such habitats, as they must be identified on a case-by-case basis at the time of the planning application, taking account of non-designated habitats as well as those on any designated sites. Evidence used in the assessment required under policy MLP 31 (Biodiversity) should also help to identify such habitats for the purposes of policy MLP 29, and relevant guidance should be followed such as Institute of Air Quality Management (2019) *A guide to the assessment of air quality impacts on designated nature conservation sites* and Chartered Institute of Ecology and Environmental Management (2021) *Advice on Ecological Assessment of Air Quality Impacts*.

⁴⁷⁹ Designated sites of importance for biodiversity are those sites of international, national, or local importance, as defined in the glossary under the headings of Natura 2000 sites, Special Areas of Conservation, Ancient Woodland, Aged or veteran trees, Sites of Special Scientific Interest, and Local Wildlife Sites.

- Identify the sensitive receptors, sensitive habitats, and designated sites of importance for biodiversity⁴⁸⁰ that may be affected by the proposed development. Particular consideration will need to be given to air quality impacts in or impacting upon areas where air quality is known to be poor, such as designated Air Quality Management Areas (AQMAs) or areas that are at risk of designation. Where relevant, reference should be made to the Worcestershire Air Quality Action Plan⁴⁸¹ and corresponding action plans of surrounding areas.
- Assess the likely air quality impacts and their significance, including the potential for cumulative impacts from the development itself and/or from other existing or approved development, and clearly state the methods adopted to reach these conclusions.
- Where negative effects are identified, set out acceptable mitigation measures to remove these effects or reduce them to acceptable levels.
- Set out measures to deliver improved air quality where possible, and quantify the contribution these measures will make to securing net improvements in overall air quality. This must be considered even when legally binding limits for concentrations of major air pollutants are not being breached. Measures to deliver improved air quality may include multifunctional green infrastructure measures. Where applicants consider that air quality improvements cannot be delivered as part of the proposed development, the reasons for this should be clearly demonstrated.

6.52 The assessment will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area, and will need to consider the impacts which might occur at all stages of the site's life. In some cases, air quality impacts may be addressed through an Environmental Impact Assessment. Where there are expected to be significant health impacts,⁴⁸² a Health Impact Assessment (HIA)⁴⁸³ can be a useful tool to enhance the positive aspects of a proposal through assessment, while avoiding or minimising any negative impacts, with particular emphasis on

disadvantaged sections of communities that might be affected.

- 6.53 Some potential air quality impacts may be able to be mitigated through appropriate site design and layout and the use of the surrounding topography. Air quality mitigation measures should be influenced by the local context, and should be incorporated in a way which responds to the relevant strategic corridor priorities (see MLP 8 to MLP 12). Other mitigation measures could be realised through considerate site design and working practices including, but not limited to, locating working areas, plant, machinery or haulage routes away from sensitive receptors, or limiting working hours.
- 6.54 Opportunities to secure overall improvements in air quality may be realised through measures such as traffic and travel management and green infrastructure provision and enhancement. Green infrastructure measures that complement the existing features of the natural environment can also deliver wider multifunctional benefits.

⁴⁸⁰ The requirements of Policy MLP 31 (Biodiversity) will be relevant to considering particular impacts on sensitive habitats and designated biodiversity sites.

⁴⁸¹ Worcestershire's Air Quality Action Plan, together with information about Air Quality Management Areas in Worcestershire, can be found at www.worcsregservices.gov.uk/pollution/air-quality.aspx.

⁴⁸² Worcestershire County Council (March 2016) *Health Impact Assessments in Planning Toolkit* advocates undertaking health impact screening to determine whether significant health impacts are likely to arise, prior to scoping the extent of any assessment which may be required. The toolkit is available at http://www.worcestershire.gov.uk/info/20122/joint_strategic_needs_assessment.

⁴⁸³ Health Impact Assessment (HIA) is a process to predict the health implications on a population of implementing a plan, policy, programme or project, aiding the decision-making process.

Access and recreation

Policy MLP 30: Access and Recreation

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted where it is demonstrated that the proposed mineral development will protect and enhance rights of way and public access provision.

A level of technical assessment appropriate to the proposed development 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 rights of way network and provision of publicly accessible green space, integrating other green infrastructure components where appropriate;
- b) not have an unacceptable adverse effect on the integrity and quality of publicly accessible green space;
- c) not have an unacceptable adverse effect on the integrity and quality of the existing rights of way network or navigable waterways; and
- d) retain rights of way in situ unless it is demonstrated that this is not practicable:
 - i. where it is demonstrated that retaining rights of way in situ is not practicable, temporary or permanent diversions will be expected to achieve an enhanced route and level of access provision over that which was previously available and must be for as short a distance and duration as practicable; and
 - ii. closure of any rights of way must only occur where it is demonstrated that it is not practicable to retain rights of way in situ and no suitable temporary or permanent diversion is possible. Compensatory provision must be made.

Reasoned justification

- 6.55 Access and recreation plays a key role in the continued social, environmental and economic well-being of the county.⁴⁸⁴ Rights of way, navigable waterways and open spaces provide opportunities for public access to green space and form an important component of sustainable transport links, both of which contribute towards health and well-being. They are also an important part of Worcestershire's high-quality environment and green infrastructure network, providing green corridors and contributing significantly to the county's heritage and local character.
- 6.56 Mineral development can impact on existing recreation assets, particularly rights of way, but also offers significant potential to provide publicly accessible green spaces and to extend and enhance public access networks. The National Planning Policy Framework is clear that planning policies should protect and enhance public rights of way and access.⁴⁸⁵

Enhancement of the rights of way network and provision of publicly accessible green space

- 6.57 The scale and location of mineral development and the proposed after-use will influence the potential contribution that a mineral site can make to the enhancement of access and recreation provision. There is likely to be greatest potential at sites that are already accessible to the public, are close to existing access networks, or which connect areas where there is currently poor provision, whilst there may be less potential at sites which include habitats that are sensitive to disturbance or where landforms or other features mean that public access needs to be restricted for safety reasons.

⁴⁸⁴ In the 2009 Worcestershire Viewpoint survey, 97% of residents classed parks and open spaces as either 'important' or 'very important'.

⁴⁸⁵ Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 100.

6.58 To demonstrate how opportunities to enhance the rights of way network and provision of publicly accessible greenspace will be optimised, policy MLP 30 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should:

- Identify whether access and recreation is a priority for the relevant strategic corridor (see policies MLP 8 to MLP 12) and consider what opportunities exist for the site to contribute towards delivering this at each stage of the site's life.
- Consider the opportunities which exist to enhance the rights of way network and the provision of publicly accessible green space on or around the site. This might include the enhancement of rights of way which will be retained on site, providing linkages between other routes or assets in the network, particularly where they contribute to long-distance recreation routes and national networks, or enabling informal access to open spaces for play, sports or walking. This should give particular consideration to how enhancements could contribute to improving health and well-being or enhancing tourism opportunities.
- Set out how these opportunities have informed development proposals and how enhancement will be delivered. This should take account of the site context, layout and topography and the impact of proposed new routes or accessible green spaces on the natural and historic environment, amenity and landscape character, and should include consideration of how routes and spaces will be managed and maintained.
- Where enhancing rights of way or provision of accessible green space is not considered appropriate, robust justification should be provided to demonstrate why enhanced access is not appropriate. This might relate to safety hazards, or the need to protect sensitive habitats, heritage assets or landscape features.

6.59 Opportunities to integrate public access and recreation enhancement with other green infrastructure components might include the use of locally appropriate planting to define routes or areas for access, or the provision of viewing points, interpretation boards or information about the area and its significance in relation to issues such as biodiversity, geodiversity or the historic environment.

Protecting publicly accessible green space

6.60 Policy MLP 30 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area, and will need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify any publicly accessible green spaces or navigable waterways on or in proximity to the application site, and outline their role in local, county, and regional scale provision. The *Worcestershire Green Infrastructure Framework* documents⁴⁸⁶ may provide a useful starting point.
- Identify the impact of the proposal on these green spaces or waterways and the integrity of the wider network, considering current levels of use and the capacity of other relevant assets within the network. This should take account of the whole life of the minerals development and should identify any mitigation measures required to ensure that impacts will be adequately managed.

6.61 Where, after mitigation measures have been put in place, a development proposal would result in residual negative effects on the integrity and quality of publicly accessible green space or recreational use of navigable waterways, compensatory provision may be necessary. Clear justification should be included to demonstrate why the benefits of the proposed development outweigh the impacts.



Croft Farm Water Park, Bredons Hardwick (former sand and gravel working)

Protecting existing rights of way

6.62 Policy MLP 30 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area, and will need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify all current access routes within the application site and any other routes in proximity to the site that might be impacted by the proposal, including footpaths, bridleways, restricted byways, and byways open to all traffic, with reference to the *Rights of Way Definitive Map and Statement for Worcestershire*.⁴⁸⁷ Reference should also be made to other access routes such as cycleways, permissive access, access land, canal towpaths and footways.
- Identify the impact of the proposal on these access routes and on the integrity and enjoyment of the wider network. This should include consideration of the impact of the proposal on public access routes and the integrity of the wider network, considering current levels of use and the capacity of other relevant routes within the network, and should include assessment of the impacts on local character, cultural heritage and the wider access network. This should take account of the whole life of the minerals development and should identify any mitigation measures required to ensure that impacts will be adequately managed.

6.63 Details should be provided of how the design of the site has taken into account the need to retain rights of way in situ. Where retaining rights of way in situ is not considered

practicable, robust justification will be required to demonstrate this, and consideration should be given to the impacts of any proposed temporary or permanent diversions or permanent closures.

6.64 Where temporary or permanent diversions are required, details should be provided of why the existing route cannot be retained in situ, how the rights of way will be restored in a timely manner and how an enhanced route and enhanced levels of access provision will be provided, including details of the proposed route and length of the diversion, the materials to be used and the access implications for users. In some cases temporary diversions may be for several weeks, in other cases they may be for the duration of a particular phase or the working life of the mineral development. Enhancement of the route could be achieved through improving views, stopping points and/or surfacing, or diversions which provide or retain locally or culturally important linkages. Enhanced levels of access provision might include disabled access or enabling multi-use routes such as bridleways or cycleways where appropriate.

6.65 Where permanent closure is proposed, strong justification should be included to demonstrate why it is not possible to retain rights of way in situ and why no suitable diversion is possible. The Mineral Planning Authority will expect compensatory provision to be made proportionate to the scale of the closure. This would be expected to include additional rights of way to enhance the network or, where this is unachievable, a distinct and obvious improvement to the existing local network.

6.66 Diverting or closing a right of way, whether on a temporary or permanent basis, follows a separate application process.

⁴⁸⁷ <http://www.worcestershire.gov.uk/countryside>.

Biodiversity

Policy MLP 31: Biodiversity

Contributing to:

Objectives MO2, MO3

Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve, enhance and deliver net gains for biodiversity.

A level of technical assessment appropriate to the proposed development and its potential impacts on biodiversity 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) conserve, restore and enhance priority habitats and ecological networks, provide for the protection and recovery of priority species, and deliver measurable net gains for biodiversity, integrating other green infrastructure components where appropriate;
- b) minimise impacts on biodiversity and avoid, adequately mitigate, or (as a last resort) compensate for significant harm to biodiversity;
- c) protect and enhance sites of biodiversity value in accordance with the hierarchy of designations:
 - i. not adversely affect the integrity of a European site, or clearly demonstrate that there are no alternative solutions and there are imperative reasons of overriding public interest which justify the likely effects (where adverse effects are justified, appropriate compensatory measures will be required to ensure that the overall coherence of Natura 2000 is protected);
 - ii. not result in the loss or deterioration of irreplaceable habitats, including ancient woodland and ancient or veteran trees, unless there are wholly exceptional reasons and a suitable compensation strategy exists;
 - iii. not be likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments), unless the benefits of the development clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; and
 - iv. not result in significant harm to either a Local Wildlife Site*, or to a priority habitat** unless the significant harm can be adequately mitigated or, as a last resort, compensated for.

* Local Wildlife Sites are non-statutory, locally designated sites notable for their value in representing the most important and most distinctive species and habitat features of substantive nature conservation value in the county. They can be viewed as 'point data' on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals. Developers will need to liaise with the Worcestershire Biological Records Centre to access more detailed data, and there may be a charge for this data.

** Priority habitats are those recognised as being of principal importance under Section 41 of the Natural Environment and Rural Communities Act 2006, as well as those identified locally by the Worcestershire Biodiversity Partnership. Known priority habitats in the county can be viewed on the Worcestershire Habitat Inventory available at www.worcestershire.gov.uk/info/20302/worcestershire_habitat_inventory.

Reasoned justification

- 6.67 Minerals operations usually take place on greenfield land and result in physical change to the site's biodiversity.⁴⁸⁸ The quality and value of existing habitats can vary significantly and are influenced by land uses and land management practices. Development could affect valued habitats and species even where they are some distance away, including through airborne and hydrological pathways. As such, the impacts of mineral workings on biodiversity often extend beyond the site boundary.
- 6.68 Mineral development can also provide an opportunity to create valuable habitats and enhance existing networks, primarily through site restoration but also during site preparation and working.⁴⁸⁹
- 6.69 The nature and scale of impacts on biodiversity are determined in part by the methods, phasing and lifespan of mineral workings, the location of the proposal in relation to biodiversity features and ecological networks, the type of restoration proposed, and the relationship of the site to its surroundings.
- 6.70 In some cases, a stand-off zone between mineral working and particular habitats may be necessary to protect vulnerable features, with the size or shape of the stand-off defined on a case-by-case basis dependent on the attributes of the site and its surroundings. However, where unacceptable harm can be avoided and greater overall benefits could be realised, it may be appropriate to work close to such features, particularly where this would improve connectivity between isolated or fragmented habitats.

Conserving, restoring and enhancing ecological networks and delivering net gains for biodiversity

- 6.71 Mineral working and restoration will be expected to contribute measurable net gains in habitats and ecological networks within and beyond the site and at a wider landscape scale, taking account of the attributes of the site and of the relevant strategic corridor. Policy MLP 31 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will be expected to set out a clear strategy for delivering measurable net gains for biodiversity as an integrated part of multifunctional green infrastructure, and should demonstrate how the proposed development will support coherent and resilient networks of habitats that link the site to the wider landscape, enhance river corridors, and/or provide stepping stones between existing sites or habitats to help reduce habitat fragmentation.⁴⁹⁰ This is especially important in adapting to climate change, as species need the ability to move to the climate most suitable to them. Isolated green spaces will limit this movement, making it more difficult for species to adapt to change.⁴⁹¹
- 6.72 The technical assessment should consider the opportunities which exist for conserving, restoring and enhancing ecological networks and delivering net gains for biodiversity, in line with the relevant strategic corridor priorities. This should include consideration of Biodiversity 2020⁴⁹² and best practice guidance⁴⁹³, taking into account any principal protected species⁴⁹⁴, local Biodiversity Action Plan targets, biological and chemical water quality,⁴⁹⁵ the Worcestershire Habitat Inventory⁴⁹⁶, and *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire*

488 Biodiversity (or 'biological diversity') means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems. This is the definition provided by the UN Convention on Biological Diversity, which subsequently appeared in the UK Biodiversity Action Plan. In simple terms, this means the diversity of plants and animals and the interactions between them.

489 *Nature After Minerals*, available at <http://alternerals.com>. Nature After Minerals (NAM) is a partnership programme, led by the RSPB and supported by Natural England, the Mineral Products Association and the British Aggregates Association. The programme came about as a result of a report produced by the RSPB in 2006, which highlighted the great opportunity for biodiversity gain through minerals restoration (Davies, A. *Nature After Minerals: How mineral site restoration can benefit people and wildlife*). The *Nature After Minerals* programme promotes the strategic opportunities for delivering biodiversity through high quality habitat creation on mineral sites and works with mineral planners, industry, statutory bodies, conservation organisations and local communities, to make substantial contributions to priority habitat creation and boost priority species populations, while providing richer places for people to enjoy.

490 The Worcestershire Habitat Inventory can be used as a tool to identify habitat network fragmentation and resilience, and is available at http://www.worcestershire.gov.uk/info/20302/worcestershire_habitat_inventory.

491 Worcestershire County Council (September 2014) *Green Infrastructure Framework 4: Socioeconomic Benefits of Green Infrastructure*, www.worcestershire.gov.uk/GI.

492 Defra (August 2011) *Biodiversity 2020: A strategy for England's wildlife and ecosystem services*.

493 Best practice guidance principles of net gain for biodiversity may include <https://www.cicem.net/biodiversity-net-gain-principles-and-guidance-for-uk-construction-and-developments-and-https://www.gov.uk/guidance/natural-environment>.

494 As specified in lists prepared under Section 41 of the *Natural Environment and Rural Communities Act 2006*.

495 Local level actions and decision making can help secure improvements to the water environment as part of a catchment-based approach to delivering the aims of the Water Framework Directive. The Environment Agency's *Catchment Data Explorer* tool enables information about catchments and the water bodies in them to be explored. It is available at <http://environment.data.gov.uk/catchment-planning>.

496 Available at http://www.worcestershire.gov.uk/info/20302/worcestershire_habitat_inventory.

mineral sites⁴⁹⁷. The assessment should clearly set out how biodiversity enhancements will be provided at each stage of the life of the site and how the proposed net gains will be measured and monitored.

- 6.73 By proactively designing and delivering integrated green infrastructure, mineral working and restoration has substantial potential to enhance biodiversity alongside other priorities. The early installation of biodiversity features during working phases or early restoration phases, and positive management of these and any retained features over the remaining life of the site, will bring greater overall gains for biodiversity than where features are only delivered during final restoration. Multifunctional green infrastructure measures that might be incorporated in site working and/or restoration should be guided by the priorities of the relevant strategic corridor (see policies MLP 8 to MLP 12).

Protecting biodiversity

- 6.74 Policy MLP 31 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify and describe the existing biodiversity value, including species, habitats and ecological networks, within and surrounding the site and how they could be affected at every stage of the proposed development. As a minimum a Preliminary Ecological Assessment should be undertaken, identifying any Worcestershire Biodiversity Action Plan species and habitats, any species and habitats records held by the Worcestershire Biological Records Centre, and any international, national and local designations and protected species which could be affected by the proposed development.
- Assess whether the proposal, either individually or cumulatively with other existing or proposed development, would be likely to cause harm to any existing

species, habitats or designated sites.

The significance of any harm should be established, taking into account the status of the sites, habitats or species which would be harmed and the contribution they make to wider ecological networks. This should include details of measures taken to avoid or otherwise reduce harm through considering alternative sites where impacts would be less harmful, employing appropriate mitigation (which could include changes to the location and/or methods of on-site working) or, as a last resort, compensation proposals. The assessment should clearly establish the significance of any residual effects.

- Where the proposed development will lead to harm to biodiversity or any site designated for its biodiversity importance, clear justification should be provided.
- The technical assessment accompanying the planning application should set out the options considered and clearly explain why the submitted proposal was chosen. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

- 6.75 In the case of a European designation⁴⁹⁸, if it cannot be concluded that the development will not be likely to have a significant effect on the interest features of the site, either alone or in combination with other plans or projects, then an 'Appropriate Assessment' under the Habitat Regulations will be required. Supporting habitat in areas beyond the boundary of a European designation which are connected with or 'functionally linked' to the life and reproduction of a population for which a site has been designated or classified should be taken into account in a Habitats Regulations Assessment, with consideration of how critical the area may be to the population of the qualifying species and whether the area is necessary to maintain or restore the favourable conservation status of the species.⁴⁹⁹

497 Worcestershire County Council (2013) *Biodiversity and minerals sites in Worcestershire: Guidance for the sustainable management of biodiversity action plan habitats at Worcestershire mineral sites* available at www.worcestershire.gov.uk/mineralsbackground.

498 Sites which would be included within the definition at regulation 8 of the *Conservation of Habitats and Species Regulations 2017*.

499 Chapman, C. & Tyldesley, D. (2016) *Functional linkages: How areas that are functionally linked to European sites have been considered when they may be affected by plans and projects - a review of authoritative decisions*. Natural England Commissioned Reports, Number 207.



Swans at Ball Mill Quarry, Grimley

6.76 The applicant should provide sufficient information to enable the competent authority to undertake an Appropriate Assessment which will determine whether the development will have an adverse effect on the integrity of the site or the Natura 2000 network. The presumption in favour of sustainable development does not apply where development is likely to have a significant effect on a European site, unless an Appropriate Assessment has concluded that it will not adversely affect the integrity of the site.⁵⁰⁰ If an Appropriate Assessment concludes that the proposal would have a significant effect on a European site, then the proposal could only be agreed to where it is demonstrated that there are no alternative solutions and there are imperative reasons of overriding public interest. Where such development is agreed to, all compensatory measures necessary must be taken to ensure that the overall coherence of Natura 2000⁵⁰¹ is protected. Applicants will be expected to provide sufficient detail of the necessary compensation measures and how they will be delivered.

6.77 Where mitigation or compensation measures are required, they should be completed on site if practicable. Biodiversity offsetting will only be considered an acceptable solution in wholly exceptional circumstances, and only when the mitigation hierarchy of avoiding, mitigating or compensating for any harm has been fully explored. Any offsetting scheme would need to apply best practice guidance,⁵⁰² and should deliver measurable net gains towards strategic defragmentation of priority habitat networks within the relevant strategic corridor to ensure gains are delivered in the locality of the site for which the offset is required. Any proposals for biodiversity offsetting will be required to address both financial and temporal risks, and provide for ongoing monitoring and habitat management.

6.78 In some cases, a stand-off zone between mineral working and particular habitats may be necessary to protect vulnerable features, with the size or shape of the stand-off defined on a case-by-case basis dependent on the attributes of the site and its surroundings. However, where it brings greater benefit overall, particularly through restoration which improves connectivity between habitats, it may be appropriate to work close to such features.

500 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 182.

501 The network of European-designated sites protected under the EU Habitats and Birds Directives, respectively.

502 Guidance on biodiversity offsetting can be found at <https://www.gov.uk/government/collections/biodiversity-offsetting>.

Historic Environment

Policy MLP 32: Historic Environment

Contributing to:

Objectives MO2, MO3

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

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-designated¹ 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.²

¹ These specific circumstances are set out in Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 201.

² Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments will be considered subject to the policies for designated heritage assets.

³ The ability to record evidence of our past will not be a factor in deciding whether such loss should be permitted under part b, c or d of this policy.

Reasoned justification

- 6.79 The historic environment is about more than just individual buildings, monuments or sites; it includes places, areas or landscapes that have historic significance and the connections between them. Heritage assets and their settings contribute to sense of place, are valued by communities, contribute to the quality of life of existing and future generations, and can contribute to the economic vitality of an area. They are an irreplaceable resource which is vulnerable to damage or loss from development,⁵⁰³ and great weight should be given to their conservation.⁵⁰⁴
- 6.80 Mineral development can impact upon heritage assets either directly, such as by physically disturbing or removing an asset, or indirectly, such as by altering an asset's setting. However, mineral working and restoration can also make a positive contribution to the setting of the historic environment and offers a unique opportunity to contribute to understanding the significance of heritage assets at a landscape scale.

Enhancing the historic environment

- 6.81 The scale and location of a mineral development and the proposed after-use will influence the potential contribution that a mineral site can make to the enhancement of the historic environment, but there are likely to be significant opportunities to enhance the setting of heritage assets and the quality and legibility of historic landscape character.
- 6.82 Policy MLP 32 requires proposals to conserve and, where possible, enhance the historic environment and for the technical assessment to demonstrate how opportunities to enhance the historic environment, including enhancing the condition, legibility and understanding of heritage assets and their setting, will be optimised. This assessment should be undertaken by an appropriate and competent expert, and will be expected to identify opportunities to contribute towards the relevant strategic corridor priorities (see Policies MLP 8 to MLP 12) and to outline how these and any site-specific opportunities have influenced working and restoration

proposals to optimise enhancement of the historic environment. The scale of minerals development and the opportunities to take a landscape-scale approach to the working and restoration of sites means that there may be potential to enhance the historic environment through strengthening the visual, historic or aesthetic connections between individual heritage assets, their surroundings and the wider historic environment. Where the site has potential to impact Palaeolithic archaeology or deposits containing significant geological or environmental remains that could advance understanding of the Palaeolithic, the technical assessment should make reference to the *Research Framework for the Palaeolithic in Worcestershire* and supporting documents.⁵⁰⁵

- 6.83 Considering how the historic environment influences, and is influenced by, the local context provides significant opportunities for the historic environment to be enhanced as an integrated part of multi-functional Green Infrastructure. This might include protecting or reinstating historic landscape features, planting using locally characteristic species, reverting to historic land management practices or enhancing historically significant rights of way.

Protecting designated and undesignated heritage assets

- 6.84 The method, phasing and lifespan of mineral workings, the location of the proposal in relation to historic assets and features, and the relationship of the site to its locality will influence the type and scale of impacts on the historic environment. Mineral development has the potential to result in direct physical changes to heritage assets, particularly those below ground which are vulnerable to changes in hydrology or chemistry, as well as through physical disturbance. Impacts on the setting of heritage assets or historic landscapes are also likely, particularly where there are significant changes to landforms, or alien features are introduced.
- 6.85 Policy MLP 32 requires an appropriate level of technical assessment to be submitted with each application.⁵⁰⁶ Such assessments should be undertaken by an appropriate and competent

503 In some cases, Listed Building Consent and/or Scheduled Monument Consent may be required in addition to planning permission. Advice should be sought from the Mineral Planning Authority prior to submitting a planning application.

504 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 199.

505 Hedge, R. et al. (2019) *A Research Framework for the Palaeolithic in Worcestershire* and Russell, O. Daffern, N. (2014) *Putting the Palaeolithic in Worcestershire's HER: Creating an evidence base and toolkit*, available at <https://iceageworcestershire.com>, and Fairchild, I. Hedge, R. and Bryant, R. (2018) *Last Landscapes of Worcestershire. The story of the Ice Age in Worcestershire*. ISBN 978-1-9998288-1-3.

506 For additional guidance see Worcestershire Archive and Archaeology Service (2012) *Information for Agents and Applicants regarding the Historic Environment and Planning* http://www.worcestershire.gov.uk/info/20230/archive_and_archaeology_projects/1064/archaeology_planning_advice, English Heritage (2012) *Mineral Extraction and Archaeology: A Practice Guide* <https://historicengland.org.uk/images-books/publications/mineral-extraction-and-archaeology/> and the Chartered Institute for Archaeologists' standards and guidance documents at <https://www.archaeologists.net/codes/cifa>.

expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify the presence and describe the significance of any designated and non-designated heritage assets likely to be affected at any stage of the proposed development, including any contribution made by their setting⁵⁰⁷. As a minimum, the Worcestershire Historic Environment Record⁵⁰⁸ and Worcestershire Historic Landscape Characterisation⁵⁰⁹ should be referred to. Consideration should be given to any visual, historic or aesthetic connections that amplify the experience of the significance of the heritage asset.⁵¹⁰
- Where the site has potential to include heritage assets with archaeological interest, the assessment should include an appropriate desk-based assessment and, where necessary, a field evaluation to determine the presence or absence of any heritage assets of archaeological interest and their degree of significance.⁵¹¹
- Set out how the design of the site's working and restoration proposals takes account of the presence and significance of heritage assets and their setting, and set out the measures that will be taken to avoid harm or, where this is not possible, otherwise reduce harm through appropriate mitigation, changes to on-site working, or any enhancement proposals. This should include consideration of changes to the environment which might affect the condition of the assets, such as changes to hydrology or chemistry, as well as any direct changes to the assets or their setting.
- Identify whether the proposal, either individually or cumulatively with other existing or proposed development, would cause harm or loss to any heritage assets including appropriate consideration of their setting, clearly distinguishing between designated and non-designated assets

and the scale of harm or loss which would be caused. This should also distinguish between temporary and permanent effects from each phase of the proposed development. In considering the impact of the proposed development, great weight will be given to the conservation of designated heritage assets, irrespective of the level of any potential harm or loss.

- 6.86 Where the proposed development would lead to harm to or loss of significance of a designated heritage asset, assessments will be expected to include clear and convincing justification to demonstrate the public benefits which the development would realise and the reasons that the harm is necessary, or the reasons that the benefits are considered to outweigh the harm to or loss of significance of the heritage asset.
- 6.87 Given the scale and nature of mineral development on greenfield sites, there is significant potential for it to impact on heritage assets with known and unknown archaeological interest, particularly in key areas for early settlement such as the river valleys and terraces typified by the Severn, Avon, Carrant Brook and Salwarpe.⁵¹² Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments will be considered subject to the policies for designated heritage assets.⁵¹³

507 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 194.
 508 The Historic Environment Record is available through the Worcestershire Archive and Archaeology Service, <http://www.worcestershire.gov.uk/waas>.
 509 Worcestershire County Council (2012) *Worcestershire Historic Landscape Characterisation* http://www.worcestershire.gov.uk/info/20230/archive_and_archaeology_projects/1062/historic_landscape_characterisation_nc.
 510 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance. Conserving and enhancing the historic environment*, paragraph: 013 Reference ID: 18a-013-20140306 Revision date: 06 03 2014.
 511 See English Heritage (2012) *Mineral Extraction and Archaeology: A Practice Guide* <https://historicengland.org.uk/images-books/publications/mineral-extraction-and-archaeology/> and the Chartered Institute for Archaeologists' standards and guidance documents at <https://www.archaeologists.net/codes/cifa>.
 512 Worcestershire Archive and Archaeology Service (2007) *Archaeology and aggregates in Worcestershire* <http://public.worcestershire.gov.uk/sites/archaeology/Reports/wr10986.pdf>.
 513 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, footnote 68.



Mammoth tusk at Clifton sand and gravel working

Recording of heritage assets prior to loss

- 6.88 Where whole or partial loss of heritage assets is justified against part b, c or d of policy MLP 32,⁵¹⁴ the technical assessment accompanying the application will be expected to set out how the heritage assets will be recorded, how understanding of the significance of the heritage asset will be advanced, and how the evidence and any archive generated will be made publicly accessible. Proposals for how and when this will take place should be agreed in consultation with Worcestershire Archive and Archaeology service.
- 6.89 Copies of evidence will be expected to be deposited with the Worcestershire Historic Environment Record, and any archives with a local museum or other public depository, and opportunities for on-site education and interpretation as part of wider public access and green infrastructure enhancement should be considered.

⁵¹⁴ In accordance with the Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 205, the ability to record evidence of our past will not be a factor in deciding whether such loss should be permitted.

Landscape

Policy MLP 33; Landscape

Contributing to:

Objectives MO2, MO3

Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and enhance the character and distinctiveness of the landscape.

A level of technical assessment appropriate to the proposed development and its potential impact on the landscape 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 inherent landscape character, integrating other green infrastructure components where appropriate;
- b) 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; and
- c) not have an unacceptable adverse effect on an Area of Outstanding Natural Beauty, taking into account its special qualities and the provisions of the relevant Management Plan:
 - i. great weight will be given to conserving and enhancing the landscape and scenic beauty of Areas of Outstanding Natural Beauty and proposals within them will be refused except in exceptional circumstances and where it is demonstrated that the proposed development is in the public interest; and
 - ii. where the proposed development would affect the setting of an Area of Outstanding Natural Beauty, regard will be given to conserving and enhancing the natural beauty of the Area of Outstanding Natural Beauty.

Reasoned justification

6.90 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.⁵¹⁵ This is supplemented by the Worcestershire Historic Landscape Characterisation⁵¹⁶ 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.

⁵¹⁵ The *Worcestershire Landscape Character Assessment Supplementary Guidance* technical handbook and interactive maps are available at www.worcestershire.gov.uk/lca.

⁵¹⁶ The *Worcestershire Historic Landscape Characterisation* is available at http://www.worcestershire.gov.uk/info/20230/archive_and_archaeology_projects/1062/historic_landscape_characterisation_hlc.

6.91 The scale and nature of mineral development means it can have both temporary and permanent impacts on existing landscapes depending on how sites are worked and restored. Land uses and features such as hedgerows, field boundaries, water bodies and footpaths might be altered and new landforms are likely to be created. Carefully designed mineral development provides the opportunity to repair fragmented landscapes and enhance wider views and landscape character.

Conserving and enhancing inherent landscape character

6.92 The scale of minerals development means that there are likely to be significant opportunities to take a landscape-scale approach to conserving and enhancing inherent landscape character through the working and restoration of sites.

6.93 Policy MLP 33 requires an appropriate level of technical assessment to be submitted with each application. Such assessment should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area, and will need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify and describe the key characteristics of the local landscape. This should be informed by the Worcestershire Landscape Character Assessment and Worcestershire Historic Landscape Characterisation and should include a field evaluation where necessary. It should make reference to the features that define the character of the area and the relative importance of those features, considering the relevant land cover parcel, landscape description unit, landscape type, historic landscape type and regional character area in identifying relevant features and characteristics.⁵¹⁷
- Assess the role of the site in contributing to the inherent landscape character, taking account of the site's key features, the condition of the landscape and sensitivity to change, and any cumulative landscape and visual impacts from the development itself and/or from other existing or proposed development.

- Consider the site in relation to the setting of any settlement(s) and the inherited character of the settlement's setting and views.
- Set out how the design of the site's working and restoration proposals takes account of the key characteristics of the surrounding landscape type, and the measures proposed to ensure the site will fit comfortably within that landscape, in keeping with existing features and habitats. This should draw on the landscape guidelines set out for the relevant landscape type in the Worcestershire Landscape Character Assessment and may include measures such as linking hedges and streams, incorporating appropriate tree cover patterns, and retaining characteristic views.
- Set out the proposed working and restoration options and clearly explain why the submitted proposal was chosen. This should identify any changes which the proposal will cause to the inherent landscape character and how the proposal will integrate the site into the existing landscape. Proposals should quantify the extent of any potential positive and negative effects, individually or cumulatively with existing or proposed development, and should distinguish between temporary and permanent effects from each phase of the proposed development.

6.94 There is significant scope for site design, layout, landforms, planting and screening to protect, restore, enhance and/or create features that strengthen inherent landscape character through all phases of the proposed development, particularly where the integration of other green infrastructure components is considered holistically, as these components influence landscape character. This might include protecting or reinstating historic landscape features, reverting to historic land management practices and field patterns, ensuring waterbodies⁵¹⁸ are in keeping with the landscape character in terms of their design and scale, and planting using locally appropriate species.

⁵¹⁷ Landscape Description Units are the building blocks of the Worcestershire Landscape Character Assessment. Nesting within them are the smallest units of landscape character, Land Cover Parcels, which describe any local variation that is present and visually apparent within the larger Landscape Description Units. The Landscape Character Assessment identifies commonalities in landscapes, allowing Landscape Description Units and the Land Cover Parcels within them to be classified into Landscape Types. These landscape units and types sit together in a mapped hierarchy: Regional Character Areas > Landscape Types > Landscape Description Units > Land Cover Parcels. See www.worcestershire.gov.uk/lca for more information.

⁵¹⁸ Waterbodies may be permanent or transitory and could include ponds, lakes, reservoirs, ditches, streams, or wetlands.

- 6.95 The technical assessment will be expected to be prepared in line with methods set out in the *Guidelines for Landscape and Visual Impact Assessment*⁵¹⁹ and to identify opportunities to contribute towards the relevant strategic corridor priorities (see Policies MLP 8 to MLP 12) and outline how these and any site-specific opportunities have influenced working and restoration proposals to optimise the enhancement of the inherent landscape character.
- 6.96 Some level of change may be able to be tolerated or absorbed, and this is likely to differ depending on the characteristics, scale and sensitivity of the landscape affected. A level of change which would fundamentally alter the landscape character so that it would no longer be recognised as containing the indicators, features and characteristics of its original landscape type is unlikely to be acceptable. Where the inherent landscape character would be fundamentally altered, the assessment should robustly justify why the inherent character cannot be conserved, restored or enhanced and why the proposed wholesale landscape change is the most appropriate option. This should include detail of measures taken to avoid or otherwise reduce harm through appropriate mitigation, changes to on-site working, or other enhancement proposals.
- 6.97 Assessments should be proportionate to the nature and scale of development proposed and the likely impact on the landscape. Analysis of the components that make up landscape should be at a scale commensurate with understanding the landscape as a whole. Where appropriate the assessment might form part of an assessment of visual impacts (see policy MLP 28, Amenity).

Protecting designated landscapes

- 6.98 Areas of Outstanding Natural Beauty (AONB) and other designated landscapes are accorded a high status of protection in relation to landscape and scenic beauty, and the conservation of wildlife and cultural heritage are important considerations in these areas.⁵²⁰ Both the Malvern Hills AONB and Cotswolds AONB Management Plans recognise that the supply of locally distinctive building materials may be needed to help retain local distinctiveness.⁵²¹

6.99 Policy MLP 33 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify whether the proposed development is within or is likely to affect the setting of an AONB. This should include consideration of potential impacts on the AONB from proposals outside the AONB boundary, and should consider the impacts of the development both individually and cumulatively with other existing or proposed development to establish the significance of any effects on the AONB.
- Proposals within an AONB should demonstrate the exceptional circumstances that exist, and why the proposal is considered to be in the public interest. As a minimum, reference should be made to relevant national policy, the special qualities of the AONB, and the provisions of the appropriate AONB Management Plan.
- Proposals within the setting of an AONB should describe the impacts on the landscape conservation and scenic beauty of the AONB, including reference to the relevant Management Plans, and any views in to and out of the AONB which would be affected. The assessment should consider when in the life of the mineral site the impacts might happen, as well as their duration.



Views from Bredon Hill, part of the Cotswolds AONB

⁵¹⁹ Landscape Institute (2013) *Guidelines for Landscape and Visual Impact Assessment* (Third edition).

⁵²⁰ Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 176.

⁵²¹ Page 55 of the *Malvern Hills Area of Outstanding Natural Beauty Management Plan 2014-2019*, available at <http://www.malvernhillsaonb.org.uk/>, and page 44 of the *Cotswolds Area of Outstanding Natural Beauty Management Plan 2018-2023*, available at <https://www.cotswoldsaonb.org.uk/planning/cotswolds-aonb-management-plan>

Soils

Policy MLP 34: Soils

Contributing to:

Objectives MO2, MO3, MO5, MO6

Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve soil resources and their quality.

A level of technical assessment appropriate to the proposed development and its potential impacts on soil resources will be required to demonstrate that, throughout its lifetime, the proposed development will:

- a) retain all soils within the site; and
- b) make appropriate provision for:
 - i. soil stripping;
 - ii. soil handling;
 - iii. soil storage; and
 - iv. re-use of soils.

Reasoned justification

- 6.100 Soils are an essential and finite physical resource.⁵²² They provide a growing medium for food, timber and other crops, store carbon and water, support biodiversity and act as a buffer against pollution.⁵²³ Worcestershire's soils face increasing pressures from climate change, land management practices and development.⁵²⁴
- 6.101 Soils overlie mineral resources and the extraction of minerals can severely disrupt soil ecosystems through the moving and mixing of soils that have developed over hundreds or thousands of years. Soils (including topsoil, subsoil, overburden and soil-making materials) can be lost or degraded by being stripped, handled and stored to enable access to underlying minerals.

6.102 The handling and storage of soils for re-use in landscaping and restoration of mineral workings can also lead to degradation. Compaction of soil reduces water infiltration, creating higher levels of run-off. This can lead to increased flood risk, and reduced agricultural productivity.⁵²⁵ Soil compaction, loss of organic matter or soil structure, changes in soil acidity, and gradient can also lead to soil erosion and consequent impacts on water quality. Appropriate soil management can significantly reduce the adverse impact of mineral development on soil functions and quality.

522 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Natural Environment*, paragraph: 024 Reference ID: 8-024-20140306 Revision date: 06 03 2014.

523 Ministry of Housing, Communities and Local Government, *Planning Practice Guidance, Natural Environment*, paragraph: 025 Reference ID: 8-025-20140306 Revision date: 06 03 2014.

524 Worcestershire County Council (2011) *Planning for soils technical research paper*.

525 Defra (2009) *Safeguarding our soils: A strategy for England*



Sand and gravel visible in the soil at Clifton Quarry (before mineral extraction)

6.103 Policy MLP 34 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- Delineate, quantify and characterise the topsoils and subsoils on site and identify the location and extent of soils contrasting in texture, stoniness, organic matter content, compaction or permeability.
- Set out how the identified topsoils, subsoils, overburden and soil-making materials will be stripped, stored and handled in a manner which protects soil functions and quality over the life of the site. In accordance with best practice guidance⁵²⁶, this should differentiate between activities at each stage of the development and include details of how and where topsoil, subsoil, overburden and soil-making materials will be stored, directly replaced⁵²⁷ in another part of the site, and used in restoration schemes.

6.104 Where the importation of soils for site restoration is proposed, this should be strongly justified and should demonstrate that importing soils will not have a significant adverse effect on the quality or conservation of the existing soil resource.

⁵²⁶ Including Defra (2009) *Construction Code of Practice for the Sustainable Use of Soils on Construction Sites* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69308/pb13298-code-of-practice-090910.pdf and Malf (2000) *Good Practice Guide for Handling Soils* <http://webarchive.nationalarchives.gov.uk/20090317221756/http://www.defra.gov.uk/farm/environment/land-use/soilguid/index.htm>.

⁵²⁷ Restoration of soils to their final location without a period of storage.

Best and most versatile agricultural land

Policy MLP 35: Best and Most Versatile Agricultural Land

Contributing to:

Objectives MO2, MO3, MO5

Planning permission will be granted where it is demonstrated that the proposed mineral development will safeguard the long-term potential of best and most versatile agricultural land.

A level of technical assessment appropriate to the proposed development and its potential impacts on best and most versatile agricultural land will be required to demonstrate that, throughout its lifetime, the proposed development will:

- a) prioritise the development of poorer-quality land in preference to higher-quality land, avoiding significant development of best and most versatile agricultural land unless it is demonstrated to be necessary;
- b) safeguard the long-term potential of best and most versatile agricultural land by enabling the land to retain its longer-term capability for agricultural use where practicable, though the proposed after-use need not always be for agriculture; and
- c) optimise the restoration of agricultural land quality and integration of green infrastructure components, where the proposed after-use includes agriculture.

Reasoned justification

6.105 Worcestershire has a strong agricultural sector, although land quality varies throughout the county. Most mineral development involves development of agricultural land, but the Agricultural Land Classification⁵²⁸ provides a method for assessing the quality of farmland to enable sustainable choices to be made about its future use within the planning system. The system classifies land into five grades with the 'best and most versatile agricultural land' defined as grades 1, 2 and 3a.⁵²⁹

6.106 Mineral development can impact on best and most versatile agricultural land by altering the principal physical factors which influence agricultural production, including climatic factors such as exposure, aspect and frost risk, site factors including gradient, microrelief and flood risk, and soil characteristics such as texture, structure, depth and stoniness.⁵³⁰

Avoiding significant development of best and most versatile agricultural land

6.107 Policy MLP 35 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- Include an assessment of the quality of agricultural land across the entire application site. The Agricultural Land Classification should be used as a starting point⁵³¹ but developers may also need to undertake more detailed assessments, particularly where existing information does not distinguish between grade 3a and grade 3b land.
- Demonstrate how the proposed site design and working methods will ensure that areas of lower-quality land will be used in preference to areas of higher-quality land, and how significant development of best and most versatile agricultural land will be avoided.

528 Natural England Technical Information Note TIN049 (2012) *Agricultural Land Classification: protecting the best and most versatile agricultural land*.

529 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework, Annex 2: Glossary*

530 Natural England Technical Information Note TIN049 (2012) *Agricultural Land Classification: protecting the best and most versatile agricultural land*.

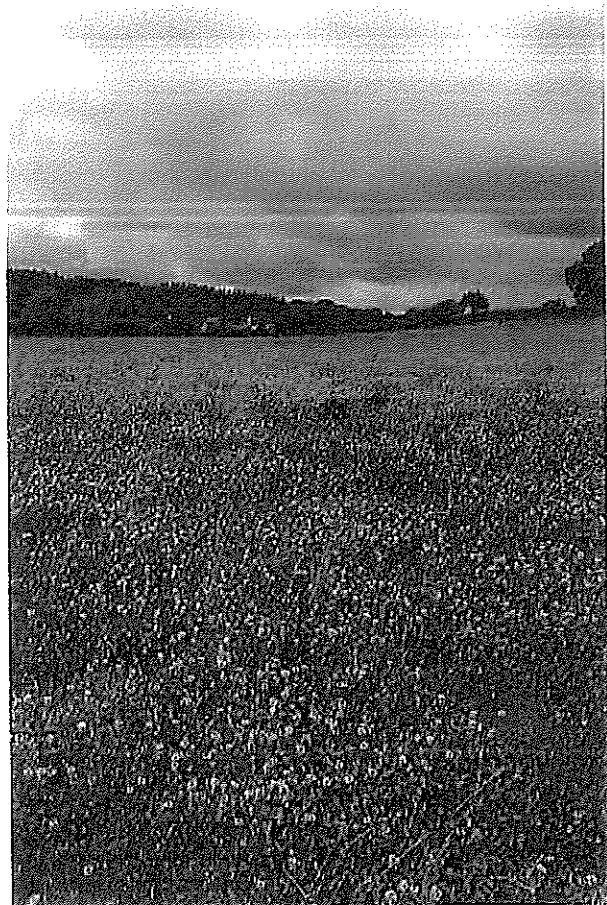
531 See Natural England guidance on agricultural land and assessing proposals for development at <https://www.gov.uk/government/publications/agricultural-land-assess-proposals-for-development>

- Where significant development of best and most versatile agricultural land is proposed, set out clear justification of why this is necessary and why the need for the development outweighs the adverse impact upon agricultural land quality. Justification may include environmental, social or economic constraints affecting alternative land of lower agricultural quality which outweigh the adverse impact of significant development of best and most versatile agricultural land.

Considering agricultural land quality and green infrastructure in restoration and after-use

- 6.108 It is not always necessary for high-quality land to be restored to agricultural use. The technical assessment required by policy MLP 35 should be undertaken by an appropriate and competent expert and should set out how working and restoration schemes have been designed to address the climatic factors, site factors and soil characteristics which could limit the agricultural land quality of the restored site where agriculture is proposed,⁵³² or the longer-term capability of the land to return to agricultural use in the future where the proposed after-use does not include agriculture.
- 6.109 Where the proposed restoration and after-use includes agriculture, optimising the restoration of agricultural land quality could include preserving high-quality soils in situ, the creation of landforms and final soil placement that reinstates high-quality land to its original value across the site, or concentrating delivery of high-quality agricultural land in part of the site.

- 6.110 Integrating green infrastructure could assist with reinstating high-quality land or retaining its longer-term capability for food production by maximising its role in providing ecosystem services, and consideration should be given to the priorities of the relevant strategic corridor (see policies MLP 8 to MLP 12). Measures such as reinstating characteristic field patterns, field boundaries and margin treatments, and land management that is compatible with Biodiversity Action Plan priority habitats and landscape character (such as commercial livestock grazing of lowland meadows or acid grasslands, or seasonal grazing of water meadows) are likely to benefit both agriculture and green infrastructure. Physical and natural features to aid water storage, reduce run-off or improve water quality can also deliver additional benefits for agriculture by reducing soil erosion, reducing diffuse pollution and increasing water availability.



Restored sand and gravel working, Blackstone Quarry

⁵³² See Natural England guidance on reclaiming minerals extraction and landfill sites to agriculture at <https://www.gov.uk/government/publications/reclaim-minerals-extraction-and-landfill-sites-to-agriculture>.

Geodiversity

Policy MLP 36: Geodiversity

Contributing to:

Objectives MO2, MO3

Planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and enhance geodiversity.

A level of technical assessment appropriate to the proposed development and its potential impacts on geological conservation interests 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 improve the condition, legibility and understanding of geodiversity, integrating other green infrastructure components where appropriate;
- b) not cause unacceptable adverse effects on geological or geomorphological sites or features. Protection will be in accordance with the hierarchy of designations:
 - i. development proposals likely to have an adverse effect on any Sites of Special Scientific Interest (either individually or in combination with other developments), should not normally be permitted unless the benefits of the proposed development clearly outweigh both its likely impacts on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
 - ii. development proposals should not result in significant harm to a Local Geological Site' unless the significant harm can be adequately mitigated or, as a last resort, compensated for;
 - iii. where the proposed development is likely to expose features of geological conservation interest, the benefits of exposing such features will be balanced against the scale and significance of any harm to or loss of such features; and
- c) where loss is unavoidable, record and advance understanding of the significance of any geodiversity feature(s) to be lost (wholly or in part) in a manner proportionate to their importance and the impact of the loss, and make evidence and any archive generated publicly accessible.

* Local Geological Sites are locally designated sites that have been identified by local geoconservation groups as being of local importance and then notified to local authority planning departments as sites in need of protection from future development. They can be viewed as 'point data' on the interactive minerals mapping tool available at www.worcestershire.gov.uk/minerals. Developers will need to liaise with the Herefordshire & Worcestershire Earth Heritage Trust to access more detailed data, and there may be a charge for this data (www.earthheritagetrust.org).

Reasoned justification

6.111 Geodiversity is the range of rocks, minerals, fossils, geological structures, soils and landforms that shape our natural environment and landscapes and the way we use them. Many geological or geomorphological features are of scientific interest or have a cultural value, contributing to local character and distinctiveness, and therefore these geological conservation interests should be valued and protected. Mineral workings have the potential to both reveal previously unexposed features of geological interest and destroy existing features.

Enhancing geodiversity

- 6.112 Mineral sites offer opportunities to enhance scientific and cultural understanding of geodiversity by revealing, recording or retaining features of geological conservation interest.
- 6.113 Policy MLP 36 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will be expected to identify opportunities to contribute towards the relevant strategic corridor priorities (see Policies MLP 8 to MLP 12) and to outline how these and any site-specific opportunities have influenced working and restoration proposals to optimise delivery of improvements to the condition, legibility and understanding of geodiversity.
- 6.114 Improvements for geodiversity could be delivered through improving the condition of features preserved in situ; through the exposure of new features, particularly where they will deliver the objectives of the UK Geodiversity Action Plan⁵³³ and Worcestershire Geodiversity Action Plans⁵³⁴; or facilitating access to the site to enable further understanding, where this is a safe and appropriate option. Considering the relationship of the geological conditions and features at the site within the wider environmental and cultural context can also provide significant opportunities to contribute towards multifunctional green infrastructure enhancements.

6.115 Opportunities to improve legibility and understanding of geodiversity are likely to be significant in the Abberley and Malvern Hills Geopark, but opportunities for enhancement are not limited to this area. Any sites within the river terraces of the Severn and Avon have the potential to reveal and record important information about the internationally important river terrace system, and the river patterns and environments in which the terraces were formed.

Conservation of important geological or geomorphological features

- 6.116 Policy MLP 36 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert, will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area, and will need to consider the impacts which might occur at all stages of the site's life. They should:
- Identify any features of geological conservation interest, making reference to notified features of any Sites of Special Scientific Interest and the qualifying criteria for which any Local Geological Sites have been designated.
 - Assess the likelihood for features to be exposed during each phase of the development that could be of scientific or educational value, historic significance and/or aesthetic interest.
 - Assess if the proposal, either individually or cumulatively with other existing or proposed development, is likely to:
 - » cause adverse effects on any Site(s) of Special Scientific Interest, including reference to the particular SSSI as well as any broader impacts on the national network of Sites of Special Scientific Interest;
 - » give rise to the loss or deterioration of any Local Geological Site(s); or
 - » result in loss of a feature of geological conservation interest exposed during the working of the site.

533 <http://www.ukgap.org.uk/>

534 <http://www.earthheritagetrust.org/pub/local-gaps/the-local-geodiversity-action-plans/>



Preserved face at Forelands Grove, Bromsgrove (courtesy of Herefordshire and Worcestershire Earth Heritage Trust)

This should include details of measures that will be taken to avoid or otherwise reduce harm through appropriate mitigation, changes to on-site working, any enhancement proposals, or, as a last resort in the case of significant harm to a Local Geological Site, any compensation measures. Mitigation or compensation measures might include stand-off zones to protect vulnerable features or the replacement of destroyed exposures with features of equal or better quality and interest at another part of the site.

- Where the proposed development is likely to have an adverse effect on a Site of Special Scientific Interest, its notified features, or the national network of Sites of Special Scientific Interest, clear justification should be included to demonstrate why the benefits of the proposed development clearly outweigh the impacts.

6.117 The level of detail should be proportionate to the nature and scale of development proposed and the feature's importance.

Recording geodiversity features prior to loss

6.118 Where the technical assessment shows that there will be unavoidable loss or deterioration of features of geological conservation interest, the scientific or educational value, historic significance and/or aesthetic qualities of the features should be recorded. This is likely to require periodic access to enable extraction faces to be logged and recorded by an appropriate and competent expert. The technical assessment will be expected to set out how the assets or features will be recorded, and how the evidence and any archive generated will be made publicly accessible.

6.119 Proposals for how and when recording and dissemination will take place should be agreed in consultation with the Herefordshire and Worcestershire Earth Heritage Trust's Geological Records Centre, or other appropriate body. On-site education and interpretation as part of wider public access and green infrastructure enhancement should be considered.

Water quality and quantity

Policy MLP 37: Water Quality and Quantity

Contributing to:

Objectives MO2, MO3

Planning permission will be granted where it is demonstrated that the proposed mineral development will protect and, where possible, enhance the quality, quantity and flow of surface water and groundwater resources.

A level of technical assessment appropriate to the proposed development and its potential impacts on the water environment 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:

- a) optimises opportunities to enhance surface water and groundwater resources, integrating other green infrastructure components where appropriate; and
- b) will not have an unacceptable adverse effect on the quality, quantity or flow of ground or surface water.

Reasoned justification

6.120 A sustainable water environment is essential to people, the economy and the environment. The water environment encompasses ground and surface water resources, including aquifers, ordinary watercourses, and main rivers. As well as providing habitats for aquatic life, clean and plentiful water is crucial to our quality of life, from household consumption to industrial and agricultural uses. The benefits of a healthy and well-functioning water environment can be put at risk from poor water quality and changes to water availability, which could be exacerbated by climate change.

6.121 The water environment on an individual site will be influenced by its surroundings. The existing and potential hydrological linkages between a site and the catchment within which it is located should influence the design of sites, how they are worked, and how they should be restored. Minerals development must be carefully designed and managed to minimise harm to water resources and, wherever possible, deliver benefits to the water environment.

6.122 Water quality refers to the chemical, physical and ecological characteristics of water, generally focusing on the health of people and ecosystems. Water quality can be significantly affected by changes to the water environment (such as water levels, flows, and pathways) or external changes (such as the introduction of new point or diffuse pollution sources).

6.123 The quantity and natural flow of water can directly affect its quality, and can have profound effects on people and environments, including biodiversity, and all kinds of users who rely on adequate water supplies. Abstraction and dewatering associated with minerals development can affect groundwater flows, including through the draining or diverting of aquifers, or the interconnection of separate aquifers. Abstraction and dewatering can also affect watercourses whose base flows derive from groundwater, or where water is abstracted from or discharged to watercourses.



Wet woodland

Enhancing water resources

6.124 The scale and location of mineral development and the proposed after-use will influence the potential contribution that a mineral site can make to the enhancement of the water environment. By proactively designing and delivering integrated green infrastructure, mineral working and restoration has substantial potential to enhance the water environment alongside delivering other priorities. Mineral workings and restored sites may be able to implement natural water retention measures to assist with infiltration and groundwater recharge, managing water levels in surface waterbodies, and preventing soil erosion and consequent impacts on water quality.⁵³⁵

6.125 Policy MLP 37 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will be expected to identify opportunities to contribute towards the relevant strategic corridor priorities (see Policies MLP 8 to MLP 12) and to outline how these and any site-specific opportunities have influenced working and restoration proposals to optimise delivery of enhancements for the quality and quantity of surface and ground water at a local and a catchment scale.

⁵³⁵ Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management In Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

Protecting water quality and quantity

6.126 Policy MLP 37 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- identify the type, location, and status⁵³⁶ of any water features within the development site and its surroundings⁵³⁷;
- set out how the proposed development, both individually and cumulatively with other existing or proposed development, will affect the quality, water levels and flows of these water features, including through abstraction, dewatering, and discharge, as well as any changes to topography, geology or vegetation which could influence infiltration or attenuation rates, or alter surface or groundwater flow pathways;
- identify any pathways that could lead to pollution of groundwater and/or surface water by chemicals or other contaminants, clearly setting out the measures which will be incorporated to ensure that any potential pollutants will be controlled through appropriate storage or remediation;
- identify the measures that would be put in place to avoid or mitigate any other harm to the water environment, and how any enhancement will be secured, this should include consideration of multifunctional green infrastructure solutions; and
- identify the significance of any residual effects that cannot be avoided or mitigated.

6.127 The significance of any impacts is likely to be influenced by the condition and status of the existing water environment, and technical assessments should outline how the proposed development has taken this into account. For example, parts of the county are designated as Source Protection Zones where there is increased risk of ground water pollution from changes in land use, or Nitrate Vulnerable Zones where there is a significant risk of either surface or ground water pollution from agricultural nitrate use. Such designations may influence how the site can be worked, whether dewatering is appropriate, and the type of restoration which is appropriate. The Water Framework Directive status of any watercourses will also need to be considered, and technical assessments will be expected to show how the proposed development will ensure that it will not lead to any deterioration in Water Framework Directive status.⁵³⁸ Applicants are encouraged to seek advice from the Environment Agency at an early stage in developing proposals.

6.128 Where abstraction or dewatering is proposed, a Hydrogeological Impact Assessment is likely to be necessary and should be undertaken in accordance with the Environment Agency's guidance.⁵³⁹ Drainage during site operations and any discharge to local watercourses must be controlled to comply with Environment Agency standards.



Wet grassland, Lower Moor

536 Including Water Framework Directive status if available, Nitrate Vulnerable Zones, Source Protection Zones, or any other measure of condition/risk, including restrictions on abstraction.

537 The Environment Agency's *Catchment Data Explorer* tool can be used to explore and download information about the water environment. It supports and builds upon the data in the river basin management plans, and can be accessed at <http://environment.data.gov.uk/catchment-planning/>

538 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management In Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/minerals/background.

539 Environment Agency (2007) *Hydrogeological Impact appraisal for dewatering abstractions*.

Flooding

Policy MLP 38: Flooding

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted where it is demonstrated that the proposed mineral development will avoid increasing flood risk to people and property on site or elsewhere and contribute, where possible, to a reduction in overall flood risk.

A level of technical assessment appropriate to the proposed development and its potential impacts on flood risk, taking account of climate change, 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 reduce the causes and impacts of flooding, integrating other green infrastructure components where appropriate;
- b) incorporate appropriate sustainable drainage systems;
- c) be resilient to flooding;
- d) be safe for its users; and
- e) not increase flood risk elsewhere.

Reasoned justification

6.129 Flooding can occur from watercourses, surface water, ground water or sewers. It is not simply the result of rainfall but is influenced by landform and land management. Impermeable ground has less ability to store and slow water than permeable ground, and vegetation can increase infiltration and interception of rain and slow the velocity of water entering rivers. Worcestershire has been subject to severe flooding events in recent years, with different parts of the county being affected by different types of flooding. Effective flood risk management is central to the economic prosperity of Worcestershire as a place for people to live, work and visit.

6.130 Sand and gravel working is classed as "water compatible development", meaning that it can be appropriate in all flood zones. Other mineral working and processing is classed as "less vulnerable", meaning that it can be appropriate in flood zones 1, 2 and 3a. However, flood risk management needs to be considered to ensure that the development will be safe for its lifetime without increasing flood risk elsewhere, and that opportunities to reduce the causes and impacts of flooding are fully considered. Minerals development must be appropriately flood resilient and resistant, safe for its users over its lifetime, and not increase flood risk overall. Mineral development also offers an opportunity to contribute to overall flood risk betterment, particularly within the catchment in which it is located.

Optimising flood betterment

6.131 The scale and location of mineral development and the proposed after-use will influence the potential contribution that a mineral site can make to reducing the causes and impacts of flooding. By proactively designing and delivering integrated green infrastructure and incorporating sustainable drainage systems and natural flood management techniques, mineral working and restoration has substantial potential to reduce the causes and impacts of flooding alongside delivering other priorities.⁵⁴⁰ Mineral workings and restored sites may be able to help to reduce flood risk within and beyond the site boundary by increasing flood storage or floodplain connectivity, or controlling and attenuating run-off, depending on the topography of the site and its relationship with the catchment.^{541 542}

6.132 Policy MLP 38 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and should set out a strategy for reducing the causes and impacts of flooding throughout the life of the site as an integrated part of multifunctional green infrastructure. Assessments will be expected to identify opportunities to contribute towards the relevant strategic corridor priorities (see Policies MLP 8 to MLP 12) and to outline how these and any site-specific opportunities have influenced working and restoration proposals to optimise delivery of measures which will reduce the causes and impacts of flooding.

Flood risk and resilience

6.133 Policy MLP 38 requires an appropriate level of technical assessment to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works, such as access routes, in addition to the main working area. They will also need to consider the impacts which might occur at all stages of the site's life, taking account of climate change.⁵⁴³ They should:

- establish current and future levels of flood risk from all sources⁵⁴⁴, both on site and surrounding the site, where flooding could affect or be affected by the development;
- identify and quantify how the proposed development, individually or cumulatively with other existing or proposed development, would affect on-site and off-site flood risk;
- provide details of the sustainable drainage systems which will be incorporated and the minimum operational standards and maintenance arrangements for these systems over the lifetime of the site;
- provide details of how the site and its surroundings will be made safe and resilient to flooding without increasing flood risk elsewhere; and
- identify the location, extent, and significance of any residual flood risk.

A site-specific Flood Risk Assessment will be required where sites are in areas at risk of flooding, or are greater than 1 hectare in area.⁵⁴⁵ The technical assessment should satisfy the relevant sequential and exception tests if required.⁵⁴⁶

540 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

541 Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

542 The Environment Agency's *Catchment Data Explorer* tool can be used to explore and download information about the water environment. It supports and builds upon the data in the river basin management plans, and can be accessed at <http://environment.data.gov.uk/catchment-planning/>

543 The implications of climate change and the allowances that should be made for climate change adaptation should be informed by the most up-to-date Environment Agency advice.

544 This should be informed by the Environment Agency's online flood maps, the Worcestershire County Council's and District Councils' Strategic Flood Risk Assessments, the Worcestershire Surface Water Management Plan (June 2018) available at http://www.worcestershire.gov.uk/info/20236/flood_risk_management/1046/plans_policies_and_strategies, (once published), and the Environment Agency, Worcestershire County Council (June 2018) *Catchment Based Management in Worcestershire Technical Background Document*, available at www.worcestershire.gov.uk/mineralsbackground.

545 Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraph 167.

546 In accordance with Ministry of Housing, Communities and Local Government (July 2021) *National Planning Policy Framework*, paragraphs 159-169, and *Planning Practice Guidance, Flood risk and coastal change*.



River Severn flooded at Worcester, February 2014

- 6.134 Although minerals working and processing is classed as either "water compatible" or "less vulnerable" development, it should still take place in areas with the lowest probability of flooding unless there are no reasonably available sites in lower-risk flood zones. Proposals should be designed to avoid locating more vulnerable parts of a mineral development, such as processing plant and associated buildings, within higher-risk parts of the site.
- 6.135 Sites should be designed to ensure that materials are stored in a way that prevents them being washed away during flood events, and safe access for vehicles and pedestrians should also be considered.
- 6.136 Minerals working, restoration and after-use strategies should be informed by local and national evidence and policy.⁵⁴⁷ Applicants are encouraged to seek advice from the Environment Agency, the Lead Local Flood Authority (Worcestershire County Council), and the Internal Drainage Board at an early stage in developing proposals.

⁵⁴⁷ An interactive minerals mapping tool is available at www.worcestershire.gov.uk/minerals. It incorporates the Policies Map which defines the Minerals Local Plan's land-use designations and allocations, and also includes additional supporting data to assist in the use and implementation of the Minerals Local Plan.

Transport

Policy MLP 39: Transport

Contributing to:

Objectives MO2, MO3, MO4, MO5

Planning permission will be granted for mineral development that uses the most sustainable transport options and which will not have an unacceptable adverse effect on transport safety or congestion.

A level of technical assessment appropriate to the proposed development and its potential impacts on the local and strategic transport network^{*} 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) prioritise the use of alternatives to road transport for the movement of minerals and materials (including water, rail, conveyors and pipelines). Road transport of minerals and materials will only be acceptable where it is demonstrated that alternative modes are not practicable or are not environmentally preferable;
- b) provide safe access for employees and visitors which, where appropriate, optimises the use of public transport, walking and cycling;
- c) connect to the strategic transport network without having an unacceptable adverse effect on safety or congestion of the local or strategic transport network;
- d) not have an unacceptable adverse effect on the environment or amenity along transport routes; and
- e) where new or modified routes are required, optimise opportunities to create and integrate green infrastructure.

* The strategic transport network comprises navigable waterways, strategic rail routes and the strategic highway network.

Reasoned justification

6.137 Policy MLP 39 is applicable to all transport movements to, from, and within all types of mineral sites, whether active or restored quarries, or processing locations. Transport includes employees' and visitors' vehicle movements and movements of minerals or other materials to, within, or from the site. Transport of minerals, materials and people can contribute to climate change through greenhouse gas emissions, and has the potential to affect the environment and public safety and to cause inconvenience, noise, vibration and air pollution. In some cases, use of rail, waterways, conveyors or pipelines may reduce these impacts in comparison to road transport and, as such, it may be preferable to transport minerals a longer distance by rail or water than a shorter distance by road. Incorporating sustainable transport for employees and visitors can also

help to reduce these impacts and can help to support healthy lifestyles.

6.138 The strategic transport network comprises navigable waterways, strategic rail routes and the strategic highway network⁵⁴⁸ (see Figure 2.10 in Chapter 2). Routes within this network are the most appropriate for the movement of minerals and materials to local and national markets.

Addressing transport implications of mineral development

6.139 Policy MLP 39 requires an appropriate level of technical assessment of the site's transport connectivity to be submitted with each application. Such assessments should be undertaken by an appropriate and competent expert and will need to take account of enabling and ancillary works in addition to the main

548 The *Advisory Lorry Route Map for Worcestershire* indicates the best available routes for heavy goods vehicles in Worcestershire, encouraging use of routes which avoid environmentally sensitive areas and bridges where the safe clearance is restricted and minimise conflict with local residents and impacts on Air Quality Management Areas (AQMAs). The *Advisory Lorry Route Map for Worcestershire* is available at http://www.worcestershire.gov.uk/info/20007/travel_and_roads/1003/freight/3.

working area. They will also need to consider the impacts which might occur at all stages of the site's life. They should:

- Identify the mode(s) and route(s) to be used to connect the site to the strategic transport network. This should set out the alternatives to road transport which have been considered and any physical, amenity, safety or capacity constraints which have informed the proposal. Where road transport is proposed, this should be fully justified.
- Identify the number and type of vehicle movements to and from the site over the lifetime of the development. This should consider any variations between different phases of the development, including transport of minerals or materials removed from site, transport of any minerals or materials brought to site, and the movement of employees and visitors.
- Identify any measures required to enable a safe and suitable connection to the strategic transport network and, where necessary, to the local transport network. This might include physical alterations to the route or new infrastructure which may need to be secured through legal agreements.
- Identify the likely environmental and amenity impacts⁵⁴⁹ of the proposed routes, both on and off site, taking account of any cumulative effects from the development itself and/or from other existing or proposed development, and set out any mitigation required to avoid or reduce harm. The assessment should determine whether any residual effects are likely to be significant.
- Set out how the proposal, where appropriate, optimises access to and from the site by public transport, walking and cycling. This may involve different solutions during working phases compared to restoration and after-use of the site, and a Travel Plan which differentiates between stages of the development may be required to identify and manage the daily employee and visitor movements to and from the site. Where it is not practical to incorporate safe access for employees and visitors through the use of public transport, walking and cycling, this should be fully justified.
- Identify how on-site infrastructure will be incorporated to enable sustainable transport, such as appropriately surfaced

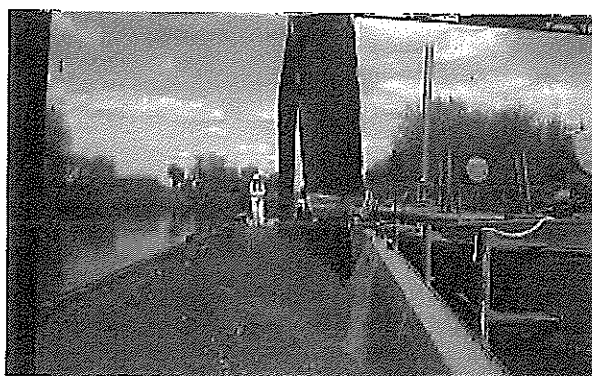
and lit cycleways, shower/changing facilities, secure cycle storage, and charging facilities for electric vehicles.

- Identify the green infrastructure opportunities that will be created or integrated along any new or modified routes, informed by the relevant strategic corridor priorities.

6.140 All development that will generate significant transport movements should have a Travel Plan which is supported by a Transport Statement or Transport Assessment.⁵⁵⁰ This should set out any differing requirements throughout the site's operational life, restoration and aftercare, and after-use. A proportionate approach will be taken to the need for Transport Statements, Transport Assessments, and Travel Plans, depending on the potential impact of the proposal.

6.141 Early engagement with route owners and/or operators can provide important information to applicants on the opportunities and limitations of any proposals, and can ensure that the connections identified in the assessment are realistic.

6.142 Taking an integrated approach to design from the outset could lead to the early identification of features or site infrastructure that might be retained in the after-use of the site to promote public access and/or sustainable transport to restored sites. This might include the potential to retain wharves for future use or haul routes to provide cycle links or footpaths. There may also be scope to provide other green infrastructure elements from the outset, such as sustainable drainage and planting schemes around visibility splays where compatible with safety requirements.



Loading sand and gravel onto a barge at Ryall's Court Farm Quarry

549 This should be considered in conjunction with policy MLP 28 (Amenity).

550 Ministry of Housing, Communities and Local Government (July 2021) National Planning Policy Framework, paragraph 113.



Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework



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Ministry of Housing, Communities and Local Government,
Fry Building, 2 Marsham Street, London, SW1P 4DF

or complete the form at <http://forms.communities.gov.uk/>

6. Building a strong, competitive economy

81. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation⁴², and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.
82. Planning policies should:
- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;
 - b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;
 - c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and
 - d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.
83. Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.

Supporting a prosperous rural economy

84. Planning policies and decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - b) the development and diversification of agricultural and other land-based rural businesses;

⁴² The Government's Industrial Strategy sets out a vision to drive productivity improvements across the UK, identifies a number of Grand Challenges facing all nations, and sets out a delivery programme to make the UK a leader in four of these: artificial intelligence and big data; clean growth; future mobility; and catering for an ageing society. HM Government (2017) *Industrial Strategy: Building a Britain fit for the future*.

- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
 - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
85. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

13. Protecting Green Belt land

137. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
138. Green Belt serves five purposes:
- 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.
139. The general extent of Green Belts across the country is already established. New Green Belts should only be established in exceptional circumstances, for example when planning for larger scale development such as new settlements or major urban extensions. Any proposals for new Green Belts should be set out in strategic policies, which should:
- a) demonstrate why normal planning and development management policies would not be adequate;
 - b) set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary;
 - c) show what the consequences of the proposal would be for sustainable development;
 - d) demonstrate the necessity for the Green Belt and its consistency with strategic policies for adjoining areas; and
 - e) show how the Green Belt would meet the other objectives of the Framework.
140. Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

141. Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:
- a) makes as much use as possible of suitable brownfield sites and underutilised land;
 - b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and
 - c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.
142. When drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account. Strategic policy-making authorities should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary. Where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously-developed and/or is well-served by public transport. They should also set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.
143. When defining Green Belt boundaries, plans should:
- a) ensure consistency with the development plan's strategy for meeting identified requirements for sustainable development;
 - b) not include land which it is unnecessary to keep permanently open;
 - c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;
 - d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;
 - e) be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period; and
 - f) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.

144. If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt. If, however, the character of the village needs to be protected for other reasons, other means should be used, such as conservation area or normal development management policies, and the village should be excluded from the Green Belt.
145. Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.
146. The National Forest and Community Forests offer valuable opportunities for improving the environment around towns and cities, by upgrading the landscape and providing for recreation and wildlife. The National Forest Strategy and an approved Community Forest Plan may be a material consideration in preparing development plans and in deciding planning applications. Any development proposals within the National Forest and Community Forests in the Green Belt should be subject to the normal policies for controlling development in Green Belts.

Proposals affecting the Green Belt

147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
148. 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.
149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
 - a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages;
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
150. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
- a) mineral extraction;
 - b) engineering operations;
 - c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
 - d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
 - e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
 - f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.
151. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

170. In coastal areas, planning policies and decisions should take account of the UK Marine Policy Statement and marine plans. Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.
171. Plans should reduce risk from coastal change by avoiding inappropriate development in vulnerable areas and not exacerbating the impacts of physical changes to the coast. They should identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, and:
- a) be clear as to what development will be appropriate in such areas and in what circumstances; and
 - b) make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.
172. Development in a Coastal Change Management Area will be appropriate only where it is demonstrated that:
- a) it will be safe over its planned lifetime and not have an unacceptable impact on coastal change;
 - b) the character of the coast including designations is not compromised;
 - c) the development provides wider sustainability benefits; and
 - d) the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast⁵⁷.
173. Local planning authorities should limit the planned lifetime of development in a Coastal Change Management Area through temporary permission and restoration conditions, where this is necessary to reduce a potentially unacceptable level of future risk to people and the development.

⁵⁷ As required by the Marine and Coastal Access Act 2009.

15. Conserving and enhancing the natural environment

174. Planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
 - c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
 - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
 - e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
 - f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
175. Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework⁵⁸; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks

⁵⁸ Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

17. Facilitating the sustainable use of minerals

209. It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.
210. Planning policies should:
- a) provide for the extraction of mineral resources of local and national importance, but not identify new sites or extensions to existing sites for peat extraction;
 - b) so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously;
 - c) safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas⁷⁰; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);
 - d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;
 - e) safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material;
 - f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;
 - g) when developing noise limits, recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction; and
 - h) ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.

⁷⁰ Primarily in two tier areas as stated in Annex 2: Glossary

211. When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy⁷¹. In considering proposals for mineral extraction, minerals planning authorities should:
- a) as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas;
 - 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;
 - c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source⁷², and establish appropriate noise limits for extraction in proximity to noise sensitive properties;
 - d) not grant planning permission for peat extraction from new or extended sites;
 - 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;
 - f) consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and
 - g) recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning permissions reflecting the intermittent or low rate of working at many sites.
212. Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.

Maintaining supply

213. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:
- a) preparing an annual Local Aggregate Assessment, either individually or jointly, to forecast future demand, based on a rolling average of 10 years' sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);

⁷¹ Except in relation to the extraction of coal, where the policy at paragraph 217 of this Framework applies.

⁷² National planning guidance on minerals sets out how these policies should be implemented.

- b) participating in the operation of an Aggregate Working Party and taking the advice of that party into account when preparing their Local Aggregate Assessment;
 - c) making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans, taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;
 - d) taking account of any published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;
 - e) using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;
 - f) maintaining landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised⁷³;
 - g) ensuring that large landbanks bound up in very few sites do not stifle competition; and
 - h) calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.
214. Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:
- a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;
 - b) encouraging safeguarding or stockpiling so that important minerals remain available for use;
 - c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment⁷⁴; and
 - d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made.

⁷³ Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.

⁷⁴ These reserves should be at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required; and at least 25 years for brick clay, and for cement primary and secondary materials to support a new kiln.

Oil, gas and coal exploration and extraction

215. Minerals planning authorities should:
- a) when planning for on-shore oil and gas development, clearly distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for;
 - b) encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility;
 - c) indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;
 - d) encourage the capture and use of methane from coal mines in active and abandoned coalfield areas; and
 - e) provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.
216. When determining planning applications, minerals planning authorities should ensure that the integrity and safety of underground storage facilities are appropriate, taking into account the maintenance of gas pressure, prevention of leakage of gas and the avoidance of pollution.
217. Planning permission should not be granted for the extraction of coal unless:
- a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or
 - b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).



Department
for Environment
Food & Rural Affairs

Consultation on Biodiversity Net Gain Regulations and Implementation

January 2022

We are the Department for Environment, Food and Rural Affairs. We're responsible for improving and protecting the environment, growing the green economy, sustaining thriving rural communities and supporting our world-class food, farming and fishing industries.

We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



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How does it relate to existing environmental planning policies?

Mandatory biodiversity net gain will work in addition to existing biodiversity protections, including those provided by the National Planning Policy Framework (and associated planning practice guidance), the Wildlife and Countryside Act 1981, the Natural Environment and Rural Communities (NERC) Act 2006, the Conservation of Habitats and Species Regulations 2017, National Policy Statements, and local plan policy.

Compliance with a number of other environmental planning policies will still need to be demonstrated by the developer; these include requirements relating to:

- protected or important sites
- protected or important species
- irreplaceable habitats

The mandatory biodiversity net gain process is additional to existing requirements for Environmental Impact Assessment, Strategic Environmental Assessment, and Habitat Regulations Assessment. There are opportunities to align reporting so that efforts are not duplicated. Further opportunities to align the delivery of net gain with wider requirements are discussed in part 3 (additionality).

When will it apply?

It is our intention that mandatory biodiversity net gain for development requiring planning permission under the Town and Country Planning 1990 will commence for new applications 2 years after royal assent of the Environment Act, which was achieved in November 2021. The National Planning Policy Framework already encourages net gains for biodiversity when drawing up plan policies and making planning decisions.

How will it be achieved?

Mandatory biodiversity net gain will be implemented through the planning system.

Developers will be required to demonstrate that they will deliver a minimum 10% net gain of biodiversity units for area-based habitats and any relevant linear habitats (hedgerows, lines of trees, and watercourses). Prior to the commencement of a development, a biodiversity gain plan must be submitted to the relevant planning authority for approval.

We maintain the view that 10% strikes the right balance between the UK Government's ambition for development and the pressing need to reverse environmental decline. The 10% will be a mandatory requirement but should not be viewed as a cap on the aspirations of developers that want to voluntarily go further or do so in the course of designing proposals to meet other local planning policies.

The biodiversity gains and losses of a development will be measured in 'biodiversity units', using a metric which uses habitats as a proxy for biodiversity and calculates units by taking account of the type, extent and condition of habitats. Natural England has recently published biodiversity metric 3⁶ which, subject to further consultation⁷ and any further updates, is expected to be the metric specified for mandatory biodiversity net gain.

Biodiversity net gain complements and works with the biodiversity mitigation hierarchy⁸ set out in the National Planning Policy Framework paragraph 180a. To achieve net gain in a way that is consistent with the mitigation hierarchy (see Figure 3) and reflecting the 'spatial hierarchy' preference for local enhancements, developers should follow these steps in order:

1. aim to avoid or reduce biodiversity impacts through site selection and layout
2. enhance and restore biodiversity on-site
3. create or enhance off-site habitats, either on their own land or by purchasing biodiversity units on the market, and
4. as a last resort to prevent undue delays, purchase statutory biodiversity credits from the UK Government where they can demonstrate that they are unable to achieve biodiversity net gain through the available on-site and off-site options

Developers will set out on-site and off-site measures in a 'biodiversity gain plan'. We intend to align this plan submission process with the digitisation of the planning system when this is possible.

⁶ Natural England (July 2021) Biodiversity Metric 3.0 <https://www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development>

⁷ The consultation will seek views on the metric to be formally published for use in mandatory biodiversity net gain, our proposals for the timeline of future updates, and the purpose and content of these future updates.

⁸ The principle that environmental harm resulting from a development should be avoided (through locating development where there will be less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

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Town and Country Planning Act 1990

UK Public General Acts 1990 c. 8 Part III Determination of applications Section 70

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Changes to legislation: Town and Country Planning Act 1990, Section 70 is up to date with all changes known to be in force on or before 14 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. View outstanding changes

- 70 Determination of applications: general considerations.
(1) Where an application is made to a local planning authority for planning permission--
F1(a) subject to F2 section 62D(5) and sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
F1(b) they may refuse planning permission.
F3(1A) Where an application is made to a local planning authority for permission in principle--
(a) they may grant permission in principle; or
(b) they may refuse permission in principle.
(2) In dealing with F4 an application for planning permission or permission in principle the authority shall have regard F5 to--
(a) the provisions of the development plan, so far as material to the application,
F6 (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
F7 (aa) any considerations relating to the use of the Welsh language, so far as material to the application;
(b) any local finance considerations, so far as material to the application, and
(c) any other material considerations.
F8(2ZZA) The authority must determine an application for technical details consent in accordance with the relevant permission in principle. This is subject to subsection (2ZZC).
(2ZZB) An application for technical details consent is an application for planning permission that--
(a) relates to land in respect of which permission in principle is in force,
(b) proposes development all of which falls within the terms of the permission in principle, and
(c) particularises all matters necessary to enable planning permission to be granted without any reservations of the kind referred to in section 92.
(2ZZC) Subsection (2ZZA) does not apply where--
(a) the permission in principle has been in force for longer than a prescribed period, and
(b) there has been a material change of circumstances since the permission came into force.
"Prescribed" means prescribed for the purposes of this subsection in a development order.
F9(2ZA) Subsection (2)(aa) applies only in relation to Wales.
F10(2A) F11 Subsections (1A), (2)(b) and (2ZZA) to (2ZZC) do not apply in relation to Wales.

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- (3) Subsection (1) has effect subject to [F12 section 65] and to the following provisions of this Act, to sections 66, 67, 72 and 73 of the M1 Planning (Listed Buildings and Conservation Areas) Act 1990 and to section 15 of the M2 Health Services Act 1976.
- [F13(3B)] For the purposes of subsection (2)(aza) (but subject to subsections (3D) and (3E)) a draft neighbourhood development plan is a "post-examination draft neighbourhood development plan" if—
- (a) a local planning authority have made a decision under paragraph 12(4) of Schedule 4B with the effect that a referendum or referendums are to be held on the draft plan under that Schedule,
 - (b) the Secretary of State has directed under paragraph 13B(2)(a) of that Schedule that a referendum or referendums are to be held on the draft plan under that Schedule,
 - (c) an examiner has recommended under paragraph 13(2)(a) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (examination of modified plan) that a local planning authority should make the draft plan, or
 - (d) an examiner has recommended under paragraph 13(2)(b) of that Schedule that a local planning authority should make the draft plan with modifications.
- (3C) In the application of subsection (2)(aza) in relation to a post-examination draft neighbourhood development plan within subsection (3B)(d), the local planning authority must take the plan into account as it would be if modified in accordance with the recommendations.
- (3D) A draft neighbourhood development plan within subsection (3B)(a) or (b) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if—
- (a) section 38A(4)(a) (duty to make plan) or (b) (cases in which duty does not apply) of the Planning and Compulsory Purchase Act 2004 applies in relation to the plan,
 - (b) section 38A(5) (power to make plan) of that Act applies in relation to the plan and the plan is made by the local planning authority,
 - (c) section 38A(5) of that Act applies in relation to the plan and the local planning authority decide not to make the plan,
 - (d) a single referendum is held on the plan and half or fewer of those voting in the referendum vote in favour of the plan, or
 - (e) two referendums are held on the plan and half or fewer of those voting in each of the referendums vote in favour of the plan.
- (3E) A draft neighbourhood development plan within subsection (3B)(c) or (d) ceases to be a post-examination draft neighbourhood development plan for the purposes of subsection (2)(aza) if—
- (a) the local planning authority make the draft plan (with or without modifications), or
 - (b) the local planning authority decide not to make the draft plan.
- (3F) The references in subsection (3B) to Schedule 4B are to that Schedule as applied to neighbourhood development plans by section 38A(3) of the Planning and Compulsory Purchase Act 2004.]
- [F14(4)] In this section—
- "local finance consideration" means—
- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy;
- "Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;
- "relevant authority" means—
- (a) a district council;
 - (b) a county council in England;
 - (c) the Mayor of London;
 - (d) the council of a London borough;
 - (e) a Mayoral development corporation;
 - (f) an urban development corporation;
 - (g) a housing action trust;
 - (h) the Council of the Isles of Scilly;
 - (i) the Broads Authority;
 - (j) a National Park authority in England;
 - (k) the Homes and Communities Agency; or
 - (l) a joint committee established under section 29 of the Planning and Compulsory Purchase Act 2004.]

Textual Amendments

- F1 S. 70(1)(a)(b): functions of local authority not to be responsibility of an executive of the authority (E)(16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1
- F2 Words in s. 70(1)(a) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 5; S.I. 2015/52, art. 3(e)
- F3 S. 70(1A) inserted (12.7.2016) by Housing and Planning Act 2016 (c. 22), ss. 150(3)(a), 216(2)(c)
- F4 Words in s. 70(2) substituted (13.7.2016) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 12 para. 11(2); S.I. 2016/733, reg. 3(d)
- F5 Words in s. 70(2) substituted (15.1.2012) by Localism Act 2011 (c. 20), ss. 143(2), 240(1)(f) (with ss. 143(5), 144)
- F6 S. 70(2)(aza) inserted (19.7.2017) by Neighbourhood Planning Act 2017 (c. 20), ss. 1(2), 46(1); S.I. 2017/767, reg. 2(a)
- F7 S. 70(2)(aa) inserted (6.9.2015 for specified purposes, 4.1.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), ss. 31(2), 58(2)(b)(4)(b) (with s. 31(4)); S.I. 2015/1987, art. 3(e)
- F8 S. 70(2ZZA)-(2ZZC) inserted (12.7.2016) by Housing and Planning Act 2016 (c. 22), ss. 150(3)(b), 216(2)(c)
- F9 S. 70(2ZA) inserted (6.9.2015 for specified purposes, 4.1.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), ss. 31(3), 58(2)(b)(4)(b) (with s. 31(4)); S.I. 2015/1987, art. 3(e)
- F10 S. 70(2A) inserted (15.1.2012) by Localism Act 2011 (c. 20), ss. 143(3), 240(1)(f) (with ss. 143(5), 144)
- F11 Words in s. 70(2A) substituted (13.7.2016) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 12 para. 11(3); S.I. 2016/733, reg. 3(d)
- F12 Words in s. 70(3) substituted (17.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para. 14 (with s. 84(5)); S.I. 1992/1491, art. 2, Sch. 1
- F13 S. 70(3B)-(3F) inserted (19.7.2017) by Neighbourhood Planning Act 2017 (c. 20), ss. 1(3), 46(1); S.I. 2017/767, reg. 2(a)
- F14 S. 70(4) inserted (15.1.2012) by Localism Act 2011 (c. 20), ss. 143(4), 240(1)(f) (with ss. 143(5), 144)

Modifications etc. (not altering text)

- G1 S. 70 modified (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III para. 19 (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4., Sch. 2
- S. 70 applied (with modifications) (2.8.1999) by S.I. 1998/1892, reg. 2(1), Sch. art. 7, Sch. 2 Pt. I

- S. 70 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, Sch. 2 Pt. II
- C2 S. 70(1) applied (with modifications) (W) (1.3.2016) by The Developments of National Significance (Wales) Regulations 2016 (S.I. 2016/55), reg. 1(2), Sch. 7 para. 1(1)(d) (with regs. 1(3), 47)
- C3 S. 70(1)(2) applied (with modifications) (W) (1.3.2016) by The Developments of National Significance (Application of Enactments) (Wales) Order 2016 (S.I. 2016/54), arts. 1, 3(1)(d)(e)
- C4 S. 70(2) applied (with modifications) (W) (1.3.2016) by The Developments of National Significance (Wales) Regulations 2016 (S.I. 2016/55), reg. 1(2), Sch. 7 para. 1(1)(e) (with regs. 1(3), 47)

Marginal Citations


- M1 1990 c. 9.
- M2 1978 c. 83.

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Town and Country Planning Act 1990

UK Public General Acts 1990 c. 8 Part XII Section 288

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Changes to legislation: Town and Country Planning Act 1990, Section 288 is up to date with all changes known to be in force on or before 13 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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288 Proceedings for questioning the validity of other orders, decisions and directions.

(1) If any person—

(a) is aggrieved by any order to which this section applies and wishes to question the validity of that order on the grounds—

- (i) that the order is not within the powers of this Act, or
- (ii) that any of the relevant requirements have not been complied with in relation to that order; or

(b) is aggrieved by any action on the part of the Secretary of State [F1 or the Welsh Ministers] to which this section applies and wishes to question the validity of that action on the grounds—

- (i) that the action is not within the powers of this Act, or
- (ii) that any of the relevant requirements have not been complied with in relation to that action.

he may make an application to the High Court under this section.

[F2(1A) If a person is aggrieved by a relevant costs order made in connection with an order or action to which this section applies and wishes to question its validity, the person may make an application to the High Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—

- (a) that the relevant costs order is not within the powers of this Act, or
- (b) that any of the relevant requirements have not been complied with in relation to the order.]

(2) Without prejudice to subsection (1) [F3 or (1A)], if the authority directly concerned with any order to which this section applies, or with any action on the part of the Secretary of State [F4 or the Welsh Ministers] to which this section applies, [F5 or with any relevant costs order,] wish to question the validity of that order or action on any of the grounds mentioned in subsection (1) [F6 or (1A) (as the case may be)], the authority may make an application to the High Court under this section.

[F7(3)

(4) This section applies to any such order as is mentioned in subsection (2) of section 284 and to any such action on the part of the Secretary of State [F8 or the Welsh Ministers] as is mentioned in subsection (3) of that section.

[F9(4A) An application under this section may not be made without the leave of the High Court.

(4B) An application for leave for the purposes of subsection (4A) must be made before the end of the period of six weeks beginning with the day after—

- (a) in the case of an application relating to an order under section 97 that takes effect under section 99 without confirmation, the date on which the order takes effect;
- (b) in the case of an application relating to any other order to which this section applies, the date on which the order is confirmed;
- (c) in the case of an application relating to an action to which this section applies, the date on which the action is taken;
- (d) in the case of an application relating to a relevant costs order, the date on which the order is made.

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- (4C) When considering whether to grant leave for the purposes of subsection (4A), the High Court may, subject to subsection (6), make an interim order suspending the operation of any order or action the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
 - (b) where leave is granted, the proceedings on any application under this section made with such leave.]
- (5) On any application under this section the High Court—
- (a) may, subject to subsection (6), by interim order suspend the operation of [F10 any order or action], the validity of which is questioned by the application, until the final determination of the proceedings;
 - (b) If satisfied that [F11 any such order or action] is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it, may quash that order or action.
- [F12(6) The High Court may not suspend a tree preservation order under subsection (4C) or (5)(a).]
- (7) In relation to a tree preservation order, or to an order made in pursuance of section 221(5), the powers conferred on the High Court by subsection [F13(4C) or] (5) shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.
- (8) References in this section to the confirmation of an order include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.
- [F14(9) In this section—
- *relevant costs order* has the same meaning as in section 284;
 - *the relevant requirements*—
 - (a) in relation to any order or action to which this section applies, means any requirements of this Act or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to that order or action;
 - (b) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the relevant costs order.]
- (10) Any reference in this section to the authority directly concerned with any order or action to which this section applies—
- (a) in relation to any such decision as is mentioned in section 284(3)(f), is a reference to the council on whom the notice in question was served and, in a case where the Secretary of State [F15 has modified] [F15 or the Welsh Ministers have modified] such a notice, wholly or in part, by substituting another local authority or statutory undertakers for that council, includes a reference to that local authority or those statutory undertakers;
 - (b) in any other case, is a reference to the authority who made the order in question or made the decision or served the notice to which the proceedings in question relate, or who referred the matter to the Secretary of State [F16 or the Welsh Ministers], or, where the order or notice in question was made or served by [F17 him] [F17 the Secretary of State or the Welsh Ministers], the authority named in the order or notice.
- [F18(11) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).]

Textual Amendments

- F1 Words in s. 288(1)(b) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 16(2); S.I. 2016/52, art. 3(e)
- F2 S. 288(1A) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(2); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F3 Words in s. 288(2) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(3)(a); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F4 Words in s. 288(2) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 16(3); S.I. 2016/52, art. 3(e)
- F5 Words in s. 288(2) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(3)(b); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F6 Words in s. 288(2) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(3)(c); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F7 S. 288(3) omitted (26.10.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(3)(c); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F8 Words in s. 288(4) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 16(4); S.I. 2016/52, art. 3(e)
- F9 S. 288(4A)-(4C) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(5); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F10 Words in s. 288(5)(a) substituted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(6)(a); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F11 Words in s. 288(5)(b) substituted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(6)(b); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F12 S. 288(6) substituted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(7); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F13 Words in s. 288(7) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(8); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F14 S. 288(9) substituted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(9); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))
- F15 Words in s. 288(10)(a) substituted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 16(5)(a); S.I. 2016/52, art. 3(e)
- F16 Words in s. 288(10)(b) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 16(5)(b)(i); S.I. 2016/52, art. 3(e)
- F17 Words in s. 288(10)(b) substituted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), Sch. 4 para. 16(5)(b)(ii); S.I. 2016/52, art. 3(e)
- F18 S. 288(11) inserted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 16 para. 4(10); S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))

Modifications etc. (not altering text)

- C1 S. 288 extended (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 22, Sch. 2 para. 9 (3) (with s. 84(5)); S.I. 1991/2067, art. 3 (subject to art. 4)
 Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, Sch. 13 para. 16(4) (with ss. 7(6), 115, 117); S.I. 1995/2765, art. 2
 Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, Sch. 14 para. 9(4) (with ss. 7(6), 115, 117); S.I. 1995/2765, art. 2
 S. 288 modified (2.10.1995) by S.I. 1995/2558, reg. 13
- C2 S. 288 applied (28.9.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 58(3), 121 (with s. 111); S.I. 2004/2202, art. 3 (subject to transitional provisions and savings in art. 4)
- C3 S. 288 modified (W) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), reg. 54
- C4 S. 288 modified (E.) (16.5.2017) by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2017/571), regs. 1(1), 66 (with regs. 47, 70)
- C5 S. 288(1)(b) applied (W) (1.3.2016) by The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (S.I. 2016/568), regs. 1(2), 55 (with reg. 59)
- C6 S. 288(1)(b) extended (W) (16.5.2017) by The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (S.I. 2017/567), regs. 1(2), 59, Sch. 8 para. 6 (with regs. 1(4), 55(2)(3), 63, 65)

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Planning and Compulsory Purchase Act 2004

UK Public General Acts 2004 c. 5 Part 3 Development plan Section 38

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Changes to legislation: Planning and Compulsory Purchase Act 2004, Section 38 is up to date with all changes known to be in force on or before 14 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. View outstanding changes

38 Development plan

- (1) A reference to the development plan in any enactment mentioned in subsection (7) must be construed in accordance with subsections (2) to (5).
(2) For the purposes of any area in Greater London the development plan is--
(a) the spatial development strategy, F1...
(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [F2], and
(c) the neighbourhood development plans which have been made in relation to that area.
(3) For the purposes of any other area in England the development plan is--
(a) the [F3 regional strategy] for the region in which the area is situated [F4 (if there is a regional strategy for that region)], and
(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [F5], and
(c) the neighbourhood development plans which have been made in relation to that area.
[F6(3A) For the purposes of any area in England (but subject to subsection (3B)) a neighbourhood development plan which relates to that area also forms part of the development plan for that area if--
(a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but
(b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.
(3B) The neighbourhood development plan ceases to form part of the development plan if the local planning authority decide under section 38A(6) not to make the plan.
(4) For the purposes of any area in Wales the development plan is [F7]--
(a) the National Development Framework for Wales,
[F8(b) any strategic development plan for an area that includes all or part of that area, and]
(c) the local development plan for that area.
(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document [F9 to become part of the development plan].
(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
(7) The enactments are--
(a) this Act;
(b) the planning Acts;

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- (c) any other enactment relating to town and country planning;
- (d) the Land Compensation Act 1961 (c. 33);
- (e) the Highways Act 1980 (c. 66).

(8) In subsection (5) references to a development plan include a development plan for the purposes of paragraph 1 of Schedule 8.

[F10(9) Development plan document must be construed in accordance with section 37(3).]

[F14(10) Neighbourhood development plan must be construed in accordance with section 38A.]

Textual Amendments

- F1 Word in s. 38(2)(a) repealed (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by Localism Act 2011 (c. 20), ss., 240(5)(f), Sch. 9 para. 6(a), Sch. 25 Pt. 16; S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F2 S. 38(2)(c) and word inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by Localism Act 2011 (c. 20), ss., 240(5)(f), Sch. 9 para. 6(a); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, art. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F3 Words in s. 38(3)(a) substituted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 82(1), 148(5) (with s. 38(2)(3)); S.I. 2009/3318, art. 4(aa)
- F4 Words in s. 38(3)(a) inserted (15.11.2011) by Localism Act 2011 (c. 20), s. 240(5)(f), Sch. 9 para. 13(1)
- F6 S. 38(2)(c) and word inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by Localism Act 2011 (c. 20), ss., 240(5)(f), Sch. 9 para. 6(b); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(e) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F6 S. 38(3A)(3B) inserted (19.7.2017) by Neighbourhood Planning Act 2017 (c. 20), ss. 3, 46(1); S.I. 2017/767, reg. 2(b)
- F7 S. 38(4)(a)-(c) substituted for words (6.9.2016 for specified purposes, 4.12.2020 in so far as not already in force) by Planning (Wales) Act 2016 (anaw 4), ss. 9, 58(2)(b)(4)(b); S.I. 2020/1216, reg. 2(a)
- F8 S. 38(4)(b) substituted (21.1.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), s. 175(1)(e), Sch. 8 para. 2
- F8 Words in s. 38(5) substituted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by Localism Act 2011 (c. 20), ss., 240(5)(f), Sch. 9 para. 6(c); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2
- F10 S. 38(9) inserted (6.4.2009) by Planning Act 2008 (c. 29), ss. 180(7), 241(8) (with s. 226); S.I. 2009/400, art. 3(e)
- F11 S. 38(10) inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by Localism Act 2011 (c. 20), ss., 240(5)(f), Sch. 9 para. 6(d); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2

Modifications etc. (not altering text)

- C1 S. 38 applied in part (with modifications) (23.12.2016) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (S.I. 2016/1267), arts. 1(2), 4(5), Sch. 1 Pt. 2
- C2 S. 38 applied (with modifications) (8.5.2018) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(5), 11(5), Sch. 2 Pt. 2

Commencement Information

- I1 S. 38 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(c)
- I2 S. 38 in force at 15.10.2005 for W. by S.I. 2005/2847, art. 2(a)

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Environment Act 2021

UK Public General Acts 2021 c. 30 PART 6 Biodiversity gain in planning Section 98

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98 Biodiversity gain as condition of planning permission

Schedule 14 makes provision for biodiversity gain to be a condition of planning permission in England.

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Environment Act 2021

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SCHEDULE 14

Section 98

BIODIVERSITY GAIN AS CONDITION OF PLANNING PERMISSION

PART 1

BIODIVERSITY GAIN CONDITION

1 In the Town and Country Planning Act 1990, after section 90 insert---

*Biodiversity gain

90A Biodiversity gain in England

Schedule 7A (biodiversity gain in England) has effect.*

2 In that Act, after Schedule 7 insert---

*SCHEDULE 7A

Section 90A

BIODIVERSITY GAIN IN ENGLAND

PART 1

OVERVIEW AND INTERPRETATION

Overview

- 1 (1) This Schedule makes provision for grants of planning permission in England to be subject to a condition to secure that the biodiversity gain objective is met.
(2) Paragraphs 2 to 12 have effect for the purposes of this Schedule.

Biodiversity gain objective

- 2 (1) The biodiversity gain objective is met in relation to development for which planning permission is granted if the biodiversity value attributable to the development exceeds the pre-development biodiversity value of the onsite habitat by at least the relevant percentage.
(2) The biodiversity value attributable to the development is the total of---
(a) the post-development biodiversity value of the onsite habitat,
(b) the biodiversity value, in relation to the development, of any registered offsite biodiversity gain allocated to the development, and
(c) the biodiversity value of any biodiversity credits purchased for the development.
(3) The relevant percentage is 10%.
(4) The Secretary of State may by regulations amend this paragraph so as to change the relevant percentage.

Biodiversity value and the biodiversity metric

- 3 References to the biodiversity value of any habitat or habitat enhancement are to its value as calculated in accordance with the biodiversity metric.
4 (1) The biodiversity metric is a document for measuring, for the purposes of this Schedule, the biodiversity value or relative biodiversity value of habitat or habitat enhancement.
(2) The biodiversity metric is to be produced and published by the Secretary of State.
(3) The Secretary of State may from time to time revise and republish the biodiversity metric.
(4) Before publishing or republishing the biodiversity metric the Secretary of State must consult such persons as the Secretary of State considers appropriate.

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- (5) The Secretary of State may by regulations make transitional provision in relation to the revision and republication of the biodiversity metric.
- (6) The Secretary of State must lay the biodiversity metric, and any revised biodiversity metric, before Parliament.

Pre-development biodiversity value

- 5 (1) In relation to any development for which planning permission is granted, the pre-development biodiversity value of the onsite habitat is the biodiversity value of the onsite habitat on the relevant date.
- (2) The relevant date is—
 - (a) in a case in which planning permission is granted on application, the date of the application, and
 - (b) in any other case, the date on which the planning permission is granted.
- (3) But the person submitting the biodiversity gain plan for approval and the planning authority may agree that the relevant date is to be a date earlier than that specified in sub-paragraph (2)(a) or (b) (but not a date which is before the day on which this Schedule comes into force in relation to the development).
- (4) This paragraph is subject to paragraphs 6 and 7.
- 6 If—
 - (a) a person carries on activities on land on or after 30 January 2020 otherwise than in accordance with—
 - (i) planning permission, or
 - (ii) any other permission of a kind specified by the Secretary of State by regulations, and
 - (b) as a result of the activities the biodiversity value of the onsite habitat referred to in paragraph 5(1) is lower on the relevant date than it would otherwise have been,

the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities.
- 7 Where planning permission is granted in respect of land which is registered in the biodiversity gain site register under section 100 of the Environment Act 2021, the pre-development biodiversity value of the land is the total of—
 - (a) the biodiversity value of the onsite habitat on the relevant date, and
 - (b) to the extent that it is not included within that value, the biodiversity value of the habitat enhancement which is, on that date, recorded in the register as habitat enhancement to be achieved on the land.

Post-development biodiversity value

- 8 (1) In relation to any development for which planning permission is granted, the post-development biodiversity value of the onsite habitat is the projected value of the onsite habitat as at the time the development is completed.
- (2) That value is to be calculated by taking the pre-development biodiversity value and—
 - (a) if at the time the development is completed the development will, taken as a whole, have increased the biodiversity value of the onsite habitat, adding the amount of that increase, or
 - (b) if at the time the development is completed the development will, taken as a whole, have decreased the biodiversity value of the onsite habitat, subtracting the amount of that decrease.

This is subject to paragraph 9.
- 9 (1) This paragraph applies in relation to any development for which planning permission is granted where—
 - (a) the person submitting the biodiversity gain plan for approval proposes to carry out works in the course of the development that increase the biodiversity value of the onsite habitat, and
 - (b) the planning authority considers that the increase is significant in relation to the pre-development biodiversity value.
- (2) The increase in biodiversity value referred to in sub-paragraph (1) is to be taken into account in calculating the post-development biodiversity value of the onsite habitat only if the planning authority is satisfied that the condition in sub-paragraph (3) is met.
- (3) The condition is that any habitat enhancement resulting from the works referred to in sub-paragraph (1)(a) will, by virtue of—
 - (a) a condition subject to which the planning permission is granted,
 - (b) a planning obligation, or
 - (c) a conservation covenant,

be maintained for at least 30 years after the development is completed.
- (4) The Secretary of State may by regulations amend sub-paragraph (3) so as to substitute for the period for the time being specified there a different period of at least 30 years.

Registered offsite biodiversity gains

- 10 (1) "Registered offsite biodiversity gain" means any habitat enhancement, where—
 - (a) the enhancement is required to be carried out under a conservation covenant or planning obligation, and
 - (b) the enhancement is recorded in the biodiversity gain site register (as to which, see section 100 of the Environment Act 2021).
- (2) References to the allocation of registered offsite biodiversity gain are to its allocation in accordance with the terms of the conservation covenant or planning obligation referred to in sub-paragraph (1)(a).
- (3) The biodiversity value of registered offsite biodiversity gain is measured, under the biodiversity metric, in relation to development to which it is allocated.

Biodiversity credits

- 11 "Biodiversity credits" means credits under section 101 of the Environment Act 2021.

General

- 12 (1) In relation to development for which planning permission is granted—
 - "onsite habitat" means habitat on the land to which the planning permission relates;
 - "planning authority" means the local planning authority, except that—
 - (a) in a case where the planning permission is granted by Mayoral development order under section 61DB, "planning authority" means such of the Mayor of London or the local planning authority as may be specified in the order;
 - (b)

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In a case where the planning permission is granted by the Secretary of State under section 62A, 76A or 77, "planning authority" means such of the Secretary of State or the local planning authority as the Secretary of State may determine;

- (c) in a case where the planning permission is granted on an appeal under section 76, "planning authority" means such of the person determining the appeal or the local planning authority as that person may direct.
- (2) "Habitat enhancement" means enhancement of the biodiversity of habitat.
- (3) References to the grant of planning permission include the deemed grant of planning permission.

PART 2

CONDITION OF PLANNING PERMISSION RELATING TO BIODIVERSITY GAIN

General condition of planning permission

- 13 (1) Every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition in sub-paragraph (2).
- (2) The condition is that the development may not be begun unless—
 - (a) a biodiversity gain plan has been submitted to the planning authority (see paragraph 14), and
 - (b) the planning authority has approved the plan (see paragraph 15).

Biodiversity gain plan

- 14 (1) For the purposes of paragraph 13(2)(a), a biodiversity gain plan is a plan which—
 - (a) relates to development for which planning permission is granted, and
 - (b) specifies the matters referred to in sub-paragraph (2).
- (2) The matters are—
 - (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,
 - (b) the pre-development biodiversity value of the onsite habitat,
 - (c) the post-development biodiversity value of the onsite habitat,
 - (d) any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development,
 - (e) any biodiversity credits purchased for the development, and
 - (f) such other matters as the Secretary of State may by regulations specify.
- (3) The Secretary of State may by regulations make provision about—
 - (a) any other matters to be included in a biodiversity gain plan;
 - (b) the form of a biodiversity gain plan;
 - (c) the procedure to be followed in relation to the submission of a biodiversity gain plan (including the time by which a plan must be submitted);
 - (d) persons who may or must submit a biodiversity gain plan.

Approval of biodiversity gain plan

- 15 (1) For the purposes of paragraph 13(2)(b) a planning authority to which a biodiversity gain plan is submitted must approve the plan if, and only if, it is satisfied as to the matters specified in sub-paragraph (2).
- (2) The matters are—
 - (a) that the pre-development biodiversity value of the onsite habitat is as specified in the plan,
 - (b) that the post-development biodiversity value of the onsite habitat is at least the value specified in the plan,
 - (c) that, in a case where any registered offsite biodiversity gain is specified in the plan as allocated to the development—
 - (i) the registered offsite biodiversity gain is so allocated (and, if the allocation is conditional, that any conditions attaching to the allocation have been met or will be met by the time the development begins), and
 - (ii) the registered offsite biodiversity gain has the biodiversity value specified in the plan in relation to the development,
 - (d) that any biodiversity credits specified in the plan as purchased for the development have been so purchased,
 - (e) that the biodiversity gain objective is met, and
 - (f) any other matters specified in the plan under paragraph 14(2)(f).

Regulations about determinations

- 16 The Secretary of State may make regulations as to—
 - (a) the procedure which a planning authority is to follow in determining whether to approve a biodiversity gain plan (including the time by which a determination must be made);
 - (b) factors which may or must be taken into account in making such a determination;
 - (c) appeals relating to such a determination.

Exceptions

- 17 Paragraph 13 does not apply in relation to—
 - (a) development for which planning permission is granted—
 - (i) by a development order, or
 - (ii) under section 293A (urgent Crown development), or
 - (b) development of such other description as the Secretary of State may by regulations specify.

Modifications for irreplaceable habitat

- 18 (1) The Secretary of State may by regulations make provision modifying or excluding the application of this Part of this Schedule in relation to any development for which planning permission is granted where the onsite habitat is "irreplaceable habitat" as defined in the regulations.

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- (2) Regulations under this paragraph must make provision requiring, in relation to any such development, the making of arrangements for the purpose of minimising the adverse effect of the development on the biodiversity of the onsite habitat.
- (3) Regulations under this paragraph may confer powers and duties, including powers and duties in relation to the giving of guidance, on Natural England.

Modifications for particular kinds of planning permission

- 19 (1) The Secretary of State may by regulations make provision modifying the application of this Part of this Schedule in relation to—
 - (a) the grant of outline planning permission, where the reservation of matters for subsequent approval has the effect of requiring or permitting development to proceed in phases, or
 - (b) the grant of any kind of planning permission, where the grant is subject to conditions (whether requiring the subsequent approval of any matters or otherwise) having that effect.
- (2) Regulations under this paragraph may include provision for a grant of planning permission referred to in sub-paragraph (1)(a) or (b) to be subject to conditions relating to meeting the biodiversity gain objective referred to in paragraph 2.
- 20 (1) The Secretary of State may by regulations make provision modifying or excluding the application of this Part of this Schedule in relation to development for which—
 - (a) planning permission is granted under section 73A (planning permission for development already carried out), or
 - (b) planning permission is granted by an order under section 102 (orders requiring discontinuance of use etc).
- (2) Regulations under this paragraph may in particular include provision—
 - (a) for paragraph 13 not to apply in relation to the grant of planning permission referred to in sub-paragraph (1)(a) or (b);
 - (b) for the grant of any such planning permission to be subject to other conditions relating to meeting the biodiversity gain objective.
- (3) The conditions referred to in sub-paragraph (2)(b) may include conditions requiring—
 - (a) habitat enhancement on the land to which the planning permission relates;
 - (b) the allocation of registered offsite biodiversity gain to any development for which the planning permission is granted;
 - (c) the purchase of biodiversity credits for any such development.

Further application of this Part

- 21 The Secretary of State may by regulations make provision to apply this Part of this Schedule in relation to development for which planning permission is granted under section 141 or 177(1), with such modifications or exclusions as may be specified in the regulations.

PART 2

CONSEQUENTIAL AMENDMENTS

- 3 (1) The Town and Country Planning Act 1990 is amended as follows.
 - (2) In section 66 (time when development begins), in subsection (3), at the end insert "and paragraph 13 of Schedule 7A".
 - (3) In section 69 (register of applications etc)—
 - (a) in subsection (1), at the end insert—
 - "(e) applications for approval of biodiversity gain plans under Part 2 of Schedule 7A";
 - (b) in subsection (2)(a), for "and (za)" substitute ", (za) and (e)".
 - (4) In section 70 (determination of applications: general considerations), in subsection (1)(a), after "section 62D(5)" insert ", paragraph 13 of Schedule 7A".
 - (5) In section 73 (determination of applications to develop land after non-compliance), after subsection (2A) insert—
 - "(2B) Nothing in this section authorises the disapplication of the condition under paragraph 13 of Schedule 7A (biodiversity gain condition).
 - (2C) Subsection (2D) applies where—
 - (a) for the purposes of paragraph 13 of Schedule 7A a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"),
 - (b) planning permission is granted under this section, and
 - (c) the conditions subject to which the planning permission is granted under this section do not affect the post-development biodiversity value of the onsite habitat as specified in the earlier biodiversity gain plan.
 - (2D) Where this subsection applies, the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A in relation to the planning permission granted under this section."
 - (6) In section 74A (deemed discharge of planning permission conditions), after subsection (2) insert—
 - "(2A) But this section does not apply to the condition under paragraph 13 of Schedule 7A (biodiversity gain condition)."
 - (7) In section 76C (provisions applying to applications made under section 62A), in subsection (2), after "Schedule 1" insert ", or by regulations under paragraph 14(3) or 16 of Schedule 7A".
 - (8) In section 84 (simplified planning zone schemes: conditions and limitations on planning permission), at the end insert—
 - "(5) A simplified planning zone scheme may not disapply the condition under paragraph 13 of Schedule 7A (biodiversity gain condition)."
 - (9) In section 88 (enterprise zones), after subsection (3) insert—
 - "(3A) Subsection (3) is subject to paragraph 13 of Schedule 7A (biodiversity gain condition)."
 - (10) In section 88A (power to make non-material changes to planning permission), after subsection (3) insert—
 - "(3A) The conditions referred to in subsection (3)(b) do not include the condition under paragraph 13 of Schedule 7A (biodiversity gain condition)."
 - (11) In section 97 (revocation or modification of planning permission), at the end insert—
 - "(7) Subsection (1) does not permit the revocation or modification of the condition under paragraph 13 of Schedule 7A (the biodiversity gain condition), subject as follows.
 - (8) The Secretary of State may by regulations make provision—
 - (a) for the condition under paragraph 13 of Schedule 7A to apply in relation to the modification of planning permission under this section, subject to such modifications as may be specified in the regulations;
 - (b) for planning permission modified under this section to be subject to other conditions relating to meeting the biodiversity gain objective referred to in paragraph 2 of Schedule 7A (including conditions of a kind referred to in paragraph 20(3) of that Schedule)."

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- (12) In section 100ZA (restriction on power to impose planning conditions in England), in subsection (13)(c), after "limitation" insert "but do not include the condition under paragraph 13 of Schedule 7A (biodiversity gain condition)".
- (13) In section 103 (planning obligations), in subsection (1), in the words before paragraph (a), after "106C" insert ", Schedule 7A".
- (14) In section 106A (modification and discharge of planning obligations), after subsection (6) insert—
 - “(6A) Except in such cases as may be prescribed, the authority may not under subsection (6) discharge or modify the planning obligation if the authority considers that doing so would—
 - (a) prevent the biodiversity gain objective referred to in paragraph 2 of Schedule 7A from being met in relation to any development, or
 - (b) give rise to a significant risk of that objective not being met in relation to any development.”
- (15) In section 333 (regulations and orders), after subsection (3A) insert—
 - “(3AA) No regulations may be made under paragraph 2(4) of Schedule 7A (biodiversity gain condition) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

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