

PLANNING AND REGULATORY COMMITTEE
17 MAY 2016**PROPOSED MINERALS EXTRACTION OF ABOUT 1.4 MILLION TONNES OF SAND AND GRAVEL AND ERECTION OF A TEMPORARY WHARF WITH PROGRESSIVE RESTORATION TO A LANDSCAPED LAKE ON LAND AT RYALL'S COURT, RYALL COURT LANE, RYALL, UPTON-UPON-SEVERN, WORCESTERSHIRE**

Applicant

CEMEX UK Materials Limited

Local Member(s)

Mr R J Sutton

Purpose of Report

1. To consider a County Matter planning application for the proposed minerals extraction of about 1.4 million tonnes of sand and gravel and erection of a temporary wharf with progressive restoration to a landscaped lake on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn, Worcestershire.

The Proposal

2. The applicant is seeking planning permission for the proposed minerals extraction of sand and gravel and erection of a temporary wharf with progressive restoration to a landscaped lake on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn.
3. This application seeks to extract about 1.4 million tonnes of sand and gravel from an area of approximately 32.5 hectares (although the full extent of red line application boundary is about 50.3 hectares), to a maximum depth of about 6 metres.
4. The proposed quarry is intended to provide a source of sand and gravel for processing at the existing Ryall House Farm Quarry (Application Ref: 407501, dated 18 June 2001, Minute No. 67 and 92 refers), which is an established quarry and processing plant located about approximately 750 metres east of Upton-upon-Severn, approximately 8.5 kilometres south-east of Great Malvern and about 1.8 kilometres south-east of this application site. Ryall House Farm is situated east of the River Severn and west of the A38. Planning permission for extraction of sand and gravel and erection of processing plant with progressive restoration to agriculture was first granted by Members of Worcestershire County Council at the site in November 1989 (Application Ref: 407225, Minute No. 1548 refers). The site now includes a mortar and concrete batching plant (Application Ref: 09/000007/CM,

dated June 2009, Minute No. 641 refers) and aggregates processing plant, wharf and related infrastructure, including direct access onto the A38. Reserves of sand and gravel at Ryall House Farm Quarry are exhausted. Sand and gravel is currently being worked from land near Ripple (Application Ref: 407502, dated 18 June 2001, Minute No. 67 and 92 refers) located about 2 kilometres south of Ryall House Farm Quarry, both sides of the Queenhill M50 Motorway Bridge adjacent to and east of the River Severn, and is transported to the processing plant at Ryall House Farm Quarry by barges along the River Severn.

5. The reserves at Ripple Quarry, which currently supply the processing plant at Ryall House Farm, will be exhausted in September 2016, and the proposed application site on land at Ryall Court Lane is intended to act as a replacement source of sand and gravel. The applicant is proposing to transport the sand and gravel downstream by barges along the River Severn to Ryall House Farm Quarry, and there would be no processing operations at the application site. This would mean that the silt washed from the sand and gravel in the processing plant would not be available on the proposed Ryall Court site for use in restoring the land.

6. The applicant has also submitted a separate but related application to amend condition 15 of the extant planning permission 407501, dated 18 June 2001 for the proposed temporary retention of the wharf and aggregates processing plant at Ryall House Farm Quarry until 1 January 2022 (see Agenda Item 6), to enable it to be used for processing of sand and gravel from this site.

7. Extraction of sand and gravel would take place below the level of the water table, and it is proposed to work the site dry, therefore, the applicant is proposing to dewater the site by pumping groundwater out of the extracted void to a proposed settling lagoon, located within the western area of the site. Water from the proposed lagoon would be discharged into the River Severn via a drainage ditch. It is proposed to extract sand and gravel at a rate of approximately 180,000 tonnes per annum for a period of about 8 years, resulting in extraction of about 1.4 million tonnes of sand and gravel in total.

8. The workable deposit of sand and gravel overlies bedrock of Mercia Mudstone and where present this ranges from a thickness of about 0.3 metres to 5.7 metres with an average depth of about 2.68 metres. Over much of the site lies overburden which ranges in thickness from about 0.2 metres to 8.1 metres, with an average depth of about 3.81 metres. The applicant states that the average grading of the deposit as a whole is about 46.6% gravel, 47.7% sand and 5.7% fines.

9. The applicant is proposing to work the site on a 'campaign' basis, up to four times per year for periods of up to 7 weeks at a time. During each campaign, sand and gravel would be excavated using a 360° hydraulic excavator and loaded onto articulated dump trucks for transportation to the storage area, where a surge pile would be created. The surge pile would measure a maximum of about 180 metres long by 45 metres wide by 7.5 metres high. During each campaign, sand and gravel would be partly loaded into barges on the River Severn direct from the proposed wharf area and partly deposited in the surge pile. Once the surge pile reaches a maximum size of 25,000 cubic metres, the excavation campaign would cease. Operations would then be confined to the loading of barges from the surge pile with a wheeled loading shovel into a feed hopper and onto conveyors direct onto the barges. A maximum of 12 barge loads per day (about 180 tonnes per load) would be

transported from the proposed wharf to Ryall House Farm Quarry for processing. The applicant has confirmed that there would be no transportation of aggregates by road directly from the application site (as shown on the plan attached to this report).

10. The operating hours and transportation of aggregates are proposed as 07:30 to 18:30 hours Mondays to Fridays, inclusive and between 07:30 and 12:00 on Saturdays with no working on Sundays or Bank Holidays.

11. The land would be progressively restored primarily to a landscaped amenity lake within the confines of the extracted area, with the adjacent areas being restored to grassland and agricultural use. The land would be worked in 5 phases from the centre of the site, to the north, to the south, south-west and finally in the south-east corner of the site.

12. The initial site development phase would involve establishment of a site access off the internal road to Ryall's Court Farm, which joins to Ryall Court Lane and the A4104 adjacent to Holly Green; construction of internal haul roads to allow movements between the extraction areas, storage areas and the wharf; construction of a temporary wharf on the River Severn; establishment of the surge pile infrastructure; construction of a settlement lagoon; stripping of soils and overburden from the first phase of extraction, haul roads and surge pile area; and closure/diversion of the Public Right of Way (Footpath RP-501), which runs north to south through the eastern part of the application site, and a minor diversion of Bridleway UU-508 in the vicinity of the barge loading area to allow for safer operation of plant and infrastructure.

13. The proposed wharf would be a "dolphin" style wharf, which is similar to the existing extended section of wharf at Ryall House Farm Quarry. Three or four steel tubes ("dolphins") would be piled into the bed of the River Severn which would allow a static barge to be moored. The operational barges would then be moored alongside the static barge for loading. External lighting is proposed around the wharf area. The proposed lighting would be mounted on poles and be directional to minimise light spillage. The applicant does not propose to excavate sand and gravel after dusk, therefore, no lighting is proposed around the excavation area.

14. Topsoil, subsoil and overburden would be stripped from Phase 1 extraction area and stored in separate storage bunds. Topsoil would be stored in two temporary soil screen bunds along the western boundary of Day House Cottage, in the north of the application site. These topsoil bunds would be approximately 3,520 and 3,386 cubic metres, and would measure about 3 metres high. Subsoil (approximately 24,762 cubic metres) and overburden (approximately 31,275 cubic metres) would be stored in separate bunds to the south of Day House Cottage, in the north-east corner of the application site, and would measure a maximum of 5 metres high. All soil storage bunds would be grass seeded, and would be removed during the Phase 2 restorations works. Following this initial stage, soils and overburden would be used for the restoration re-profiling operations of each previous extraction phase.

15. Phase 1 is located within the centre of the application site and covers a surface area of approximately 9.5 hectares, with an approximate sand and gravel reserve of 450,000 tonnes, which would be worked over a period of about 2.5 years.

16. Phase 2 is the northernmost phase and covers a surface area of about 7.3 hectares, with an approximate sand and gravel reserve of 280,000 tonnes, which would be worked over a period of about 1.5 years.

17. Phase 3 in the south of the site covers a surface area of about 8.3 hectares, with an approximate sand and gravel reserve of 380,000 tonnes, which would be worked over a period of about 2 years.

18. Phase 4 in the south-west corner of the site covers a surface area of about 2.6 hectares, with an approximate sand and gravel reserve of 105,000 tonnes, which would be worked over a period of about 7 months.

19. Phase 5 in the south-east corner of the site covers a surface area of about 4.7 hectares, with an approximate sand and gravel reserve of 190,000 tonnes, which would be worked for just over 1 year.

20. The final phase would be to complete the restoration of the site. The proposed water body would be approximately 15 hectares in area and would have an average depth of about 5 metres, with a maximum depth of about 7 metres in the south. The applicant states that the design principles of the restoration scheme are to create a multi-functional area of benefit to the local community and to wildlife. The scheme has, therefore, been designed to create a larger and more open area of water in the south of the site, which is intended for public access and amenity and would be suitable for fishing, boating and quiet recreational pursuits; whilst the north of the site would be narrower with a more sheltered body of water for wildlife conservation. To the south the proposed lake would be bounded by traditional grassland to provide open access to the shore for visitors, whilst the land surrounding the proposed lake in the north would contain extensive reedbeds and larger areas of swales and wet grassland. New hedgerows (approximately 1.7 kilometres in total combined length) would be planted and interspersed with new tree planting. A bird watching area is also proposed to the north of the site. The proposed wharf area and soil storage areas would be restored back to their existing use of pasture land.

21. Vehicular access to the application site would be via Ryall Court Lane, which provides access to Ryall's Court Farm, beyond which are existing farm tracks which lead to the application site. All sand and gravel is proposed to be transported by barge along the River Severn to the existing processing plant at Ryall House Farm Quarry. This vehicular access would only be required for the movement of plant and machinery for soil stripping and excavation operations, including an excavator, articulated dump trucks, bulldozers and a wheeled loading shovel as well as access for site operatives. Plant and machinery would be transported by a low loader type HGV, except for dump trucks. There would also be periodic deliveries of fuel and occupational vehicle movements associated with plant maintenance. All these vehicles, except for the loading shovel, which would remain to load barges would be removed after each campaign. Therefore, HGV movements to and from the application site would occur 8 times per year (at the beginning and end of each the four campaigns per year). At the beginning of a campaign this would include about 2 low loaders and 2 dump trucks entering the site and 2 low loaders exiting the site; and at the end of a campaign this would include about 2 low loaders entering the site and 2 low loaders and 2 dump trucks exiting the site. This equates to about 12 HGV movements per campaign, with a total of approximately 48 HGV movements per annum.

22. The applicant states that the proposal would employ 13 members of staff during the excavation campaigns and 2 permanent employees on site associated with the ongoing barge loading operations.

23. The application is accompanied by an Environmental Statement which addresses the landscape and visual impact, ecology, agricultural and soil resources, hydrology and hydrogeology, noise, air quality, transportation and cultural heritage.

The Site

24. The application site is approximately 50.3 hectares in area, with an extraction area of approximately 32.5 hectares, and lies in the open countryside, immediately to the east of the River Severn in the south-west of Worcestershire. Hanley Castle is situated about 380 metres west of the proposal on the western bank of the River Severn, and Upton-upon-Severn is located about 620 metres south of the proposal. Holly Green is located about 600 metres south-east of the site, and Great Malvern is situated approximately 5.5 kilometres north-west of the proposed development. Clifton Quarry (extant planning permission ref: 407531, Minute No. 437 refers) which is an existing sand and gravel quarry operated by Tarmac is located about 3 kilometres north of the application site; and Ryall House Farm (extant planning permission ref: 407501, Minutes No. 67 and 92 refers), an existing quarry and processing plant operated by the applicant is located approximately 1.8 kilometres south-east of the proposal.

25. The application site comprises of agricultural land, partly arable and pasture, with scattered hedgerows and isolated former hedgerow trees, crossed east to west by an agricultural track in the southern part of the site. The site is relatively flat with ground levels averaging 11 metres Above Ordnance Datum (AOD), and is roughly triangular shaped, orientated north to south with the apex located at the northern most part of the site. The application site measures about 1.1 kilometres in length (north to south) and about 450 metres wide (east to west) at its widest point.

26. The area of extraction is defined on the west by a low hedgerow and runs southwards parallel with the River Severn, set back about 210 metres to 340 metres from the river. The southern boundary is set back about 50 metres and runs parallel with an overhead electricity line. The eastern boundary runs parallel with an existing hedgerow, set back at distances between 50 to 100 metres; and the northern area is undefined on the ground, but has been defined at a distance of about 200 metres south of the River Severn.

27. The application site also comprises two areas of land to the west and to the north-east of the main body of the application site, which are linked to the main application site by narrow corridors. To the west is an area of land measuring approximately 3.8 hectares in area, located on and adjacent to the River Severn, which would accommodate the proposed wharf and associated infrastructure. To the north-east is an area of raised land, at levels between 14 metres and 23 metres AOD, measuring approximately 5.5 hectares in area, which is proposed to be used for subsoils and overburden storage. This area also contains ridge and furrow earthworks.

28. Vehicular access to the application site would be via Ryall Court Lane, which joins the A4104 at a priority junction, which connects to the A38 to the north-east. Ryall Court Lane provides access to Ryall's Court Farm, beyond which are existing farm tracks which lead to the application site.

29. A number of Public Rights of Way are located within the vicinity of the application site. Footpath RP-501 runs north to south through the eastern part of the application site, joining Footpath EA-519 in the northern part of the application site. This Footpath joins Footpath UU-594 immediately to the north of the application site. The Bridleways of UU-512, EA-546, EA-547, RP-505 and RP-506 run along the eastern boundary of the application site. The Bridleway of UU-508, a long distance recreational route (Severn Way) runs along the eastern bank of the River Severn. Footpaths RP-508 and UU-511 runs north-east to south-west and adjoin the south-eastern boundary of the application site. Footpath HK-574 is located on the western bank of the River Severn, located about 340 metres west of the application site.

30. The whole of the application site is situated within Flood Zone 3a (high probability) and Flood Zone 3b (Functional Flood Plain), except for a small parcel of land located in the north-east of the application site, which is within Flood Zone 1 (low probability).

31. The historic park and gardens of 'The Park', which adjoins Severn End is located about 200 metres north-west of the application site, and Croome Court landscaped park is located about 1.6 kilometres to the north-east of the application site.

32. There are a number of statutory and no-statutory wildlife designated sites within 2 kilometres of the proposal. This includes the Upton Ham Site of Special Scientific Interest (SSSI), which is located about 715 metres south of the application site on the southern bank of the River Severn; and Earl's Croome Meadow SSSI is located about 610 metres to the east of the proposal. The Brotheridge Green Disused Railway Local Wildlife Site (LWS) is situated approximately 1.1 kilometres south-west of the proposal, beyond which are situated the Brotheridge Green Meadows SSSI and Brotheridge Green Meadows & Boynes Coppice LWS, located about 1.6 kilometres south-west of the application site. The River Severn LWS is located immediately to the west of the application site, and the Smithmoor Common & Meadows LWS is sited about 1.7 kilometres south-east of the proposal. Pool and Mere Brooks LWS is located about 790 metres west of the proposal. The Brickpits Plantation & Sandford Pits LWS and Cliffey Wood & Cliffs LWS are situated about 1.9 kilometres north-west of the proposed development. The ancient semi-natural woodland of Cliff Wood and Barnes' Rough are located about 200 metres and 325 metres north and north-east of the application site, respectively. There are a number of sites listed within the Worcestershire Grassland Inventory, within 1 kilometre of the site, namely the Holly Green Meadows located about 305 metres south-east of the site; Earls Croome Meadows situated approximately 790 metres east of the site; and Severn Bank Meadows located about 850 metres north-east of the proposal.

33. Part of the application site is Best and Most Versatile Agricultural Land, with the majority of the site being Grade 3a (about 51.9% of the site), which is found mainly in the west of the site, with a small area of Grade 2 (about 6.1% of the site) in the south of the site. The remainder of the site is Grade 3b, which is found mainly in the east of the site.

34. A number of Heritage Assets are located within the context of the application site. These include Severn End a Grade II* Listed Building and associated Grade II Listed buildings and structures (Pigeoncote, Brewhouse, Severn End Cottage and outbuilding, walls, gates piers and gates enclosing courtyard east of Severn End, walls enclosing garden south of Severn End, outbuilding, and barn) which are located approximately 250 metres north-west of the proposal, west of the River Severn.

35. The Grade II Listed Buildings of the Cottage, Quay Lane Farmhouse, and Bonners Cottage are situated on the western bank of the River Severn located approximately 180 metres west of the application site. Further Grade II Listed Buildings, Schedule Monument (Boundary Cross at Entrance to Quay Lane) and Hanley Caste Conservation Area are located beyond within Hanley Castle. Pool House Listed Building II is situated approximately 410 metres south-west of the proposal on the western bank of the River Severn. The Scheduled Monument of Ringwork known as Hanley Castle is located about 1 kilometre west of the proposal.

36. The Grade II Listed Building of Severn Bank and the associated Grade II Listed Garden Wall are situated about 720 metres north-east of the proposal. Hollybeds Farm Listed Building II is situated about 640 metres north-east of the application site. Levant Lodge Listed Building II is situated about 800 metres east of the proposal. Beyond which are the Grade II Listed Buildings of Quarry Lane Cottage, Hazeldene and Earl's Croome House are located 1.1 kilometres east of the proposal. The Scheduled Monument of moated site east of Church is situated about 1.6 kilometres east of the proposal, in Earl's Croome.

37. The Grade II Listed Buildings of Holly Green Cottage, Sunnybank Cottage and Holly Green Farm House are located approximately 510 metres south of the application site and about 670 metres south-east of the extraction area. A number of Listed Buildings and Scheduled Monuments are also located within Upton-upon-Severn, with the Upton-upon-Severn Conservation Area located about 450 metres south of the application site.

38. Malvern Hills Area of Outstanding Natural beauty (AONB) is situated about 4.7 kilometres west of the application site, and Bredon Hill ANOB is situated approximately 7.2 kilometres south-east of the proposal.

39. The proposed development is located immediately to the north of the Upton-upon-Severn festival camping fields (Fish Meadow). The Upton-upon-Severn Marina is located about 450 metres south of the application, immediately south of the A4104.

40. Sewage Treatment Works are located about 270 metres east of the application site, east of the Bridleway RP-506 and 400 metres west of the application site, on the western bank of the River Severn.

41. The nearest residential property to the application site is that of the Day House and associated Flat at the Day House Cottages, located immediately to the north-east of the application site. Access to the application site is via Ryall's Court Farm, which is situated about 200 metres from the main body (extraction area) of the application site. Further residential dwellings located adjacent to the main vehicular

access include Ryall Place and Humphrey Hall which are located about 600 metres from the main body of the application site. Beyond which are further residential properties located off Ryall Court Lane. Rag House and Ryall Chase are located adjacent to Bridleway RP-506, located about 435 metres south-east of the proposal. Further residential properties are situated beyond, set back from the A4104.

42. Severn Bank House and the Coach House are situated about 610 metres north of the application site. Hollybeds Farm, Holly Lodge and the Marl House are situated about 630 metres north-east of the application site.

43. Severn End, Vine Yard Barn and holiday lets, and Severn End Cottage are located on the western bank of the River Severn situated about 250 metres north-west of the proposal (wharf area).

44. Ballards Farm, the Cottage, Bonners Cottage and River View are located approximately 190 metres south-west of the application site (wharf area) and about 390 metres west of the main body of the application site, on the western bank of the River Severn. Further residential properties are situated beyond in Hanley Castle, situated along Quay Lane. A number of boat houses are located along the western bank of the River Severn, situated approximately 325 metres south-west of the proposal.

45. The application site is located within the parishes of Upton-upon-Severn, Ripple Parish and Earl's Croome Parish.

Summary of Issues

46. The main issues in the determination of this application are:

- Worcestershire's Landbank of Sand and Gravel Reserves
- Whether the proposal meets the site selection criteria set out in the adopted Hereford and Worcester Minerals Local Plan
- Best and Most Versatile Agricultural Land
- Alternatives
- Traffic, highway safety and impact upon Public Rights of Way
- Residential amenity (including noise and dust)
- Landscape character and appearance of the local area
- Historic environment
- Ecology and biodiversity
- The protection of the water environment, and
- Restoration and aftercare of the site.

Planning Policy

National Planning Policy Framework (NPPF)

47. The National Planning Policy Framework (NPPF) was published and came into effect on 27 March 2012. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It constitutes guidance for local planning authorities and decision takers and is a material planning consideration in determining planning applications. Annex 3 of the NPPF lists the documents revoked and replaced by the NPPF. At the heart of the NPPF is a presumption in

favour of sustainable development, which should be seen as a golden thread running through plan-making and decision-taking.

48. Sustainable Development is defined by five principles set out in the UK Sustainable Development Strategy:

- "living within the planet's environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly".

49. The Government believes that sustainable development can play three critical roles in England:

- an economic role, contributing to a strong, responsive, competitive economy
- a social role, supporting vibrant and healthy communities and
- an environmental role, protecting and enhancing our natural, built and historic environment.

50. The following guidance contained in the NPPF is considered to be of specific relevance to the determination of this planning application:-

- Section 1: Building a strong, competitive economy
- Section 3: Supporting a prosperous rural economy
- Section 4: Promoting sustainable transport
- Section 7: Requiring good design
- Section 8: Promoting healthy communities
- Section 10: Meeting the challenge of climate change, flooding and coastal change
- Section 11: Conserving and enhancing the natural environment
- Section 12: Conserving the historic environment
- Section 13: Facilitating the sustainable use of minerals

The Development Plan

51. The Development Plan is the strategic framework that guides land use planning for the area. In this respect the current Development Plan consists of the Saved Policies of the Adopted County of Hereford and Worcester Minerals Local Plan and Adopted South Worcestershire Development Plan.

52. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

53. Annex 1 of the NPPF states that for the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. However, the policies contained within the NPPF are material considerations. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the NPPF. In other cases and following this 12-month period, due weight should be given to

relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

County of Hereford and Worcester Minerals Local Plan (Saved Policies)

Policy 1 Preferred Areas

Policy 2 Other Sand and Gravel Deposits

South Worcestershire Development Plan (SWDP)

54. The South Worcestershire Development Plan (SWDP) covers the administrative areas of Worcester City Council, Wychavon District Council and Malvern Hills District Council. The SWDP is a Development Plan Document which sets out strategic planning policies and detailed development management policies. The SWDP also allocates sites for particular types of development and sets out policies on site specific requirements. It covers the period 2006-2030. The SWDP was adopted on 25 February 2016. The SWDP policies that are of relevance to the proposal are set out below:

Policy SWDP 1 Overarching Sustainable Development Principles

Policy SWDP 2 Development Strategy and Settlement Hierarchy

Policy SWDP 3 Employment, Housing and Retail Provision Requirements and Delivery

Policy SWDP 4 Moving Around South Worcestershire

Policy SWDP 5 Green Infrastructure

Policy SWDP 6 Historic Environment

Policy SWDP 21 Design

Policy SWDP 22 Biodiversity and Geodiversity

Policy SWDP 23 The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)

Policy SWDP 24 Management of the Historic Environment

Policy SWDP 25 Landscape Character

Policy SWDP 28 Management of Flood Risk

Policy SWDP 29 Sustainable Drainage Systems

Policy SWDP 30: Water Resources, Efficiency and Treatment

Policy SWDP 31 Pollution and Land Instability

Policy SWDP 32 Minerals

Policy SWDP 39 Provision for Outdoor Community Uses in New Development

Policy SWDP 40 Waterfronts

Emerging Minerals Local Plan

55. Worcestershire County Council is preparing a new Minerals Local Plan for Worcestershire, which will be a restoration led plan. This document will set out how much and what minerals need to be supplied, where minerals should be extracted, how sites should be restored and how minerals development should protect and enhance Worcestershire's people and places. Once it is adopted it will replace the existing minerals policies in the County of Hereford and Worcester Minerals Local Plan.

56. The first stage consultation on Emerging Minerals Local Plan ran from 9 October 2012 to 11 January 2013. The second formal stage of consultation began on 11 November 2013 and ran until 31 January 2014. This consultation included: a portrait of Worcestershire; draft vision and objectives; spatial strategy diagram which

set out very broadly what type of development the County Council would like where; details of how much of each mineral is required and when; ideas about how minerals should be worked, where minerals should be worked, and how minerals should be safeguarded for future use.

57. In summer 2014 the County Council made a call for proposed locations for aggregate extraction that should be considered in the development of the Minerals Local Plan. In summer 2015 the County Council undertook a further call for non-aggregate and aggregate sites (non-aggregate minerals including clay, building stone, silica sand, salt and brine, coal and a further call for sites for aggregate minerals) and call for resources and infrastructure that should be safeguarded, as well as seeking comments on a suite of background documents. This consultation ran until 25 September 2015.

58. The next full consultation on the Emerging Minerals Local Plan is scheduled to take place in Spring 2016. This is anticipated to set out draft plan and policy wording and outline specific locations where mineral development should be focused. The next stage would then be a consultation on the soundness of the Emerging Mineral Local Plan in Spring 2017 and submission of the plan to Secretary of State for public examination in Summer 2017.

59. It has not therefore been tested at examination or adopted by the County Council. Indeed, there will be further stages of consultation on the document prior to submission in Summer 2017. Having regard to the advice in the NPPF, Annex 1, it is the view of the Head of Strategic Infrastructure and Economy that the Emerging Minerals Local Plan is insufficiently progressed for any weight to be attached to it in the determination of this application.

Worcestershire Green Infrastructure (GI) Strategy (2013 – 2018)

60. The Worcestershire Green Infrastructure Strategy, produced by the Worcestershire Green Infrastructure Partnership, describes the need for Green Infrastructure in the county and sets a vision for the delivery of Green Infrastructure. It highlights how this can be delivered through housing, employment, infrastructure development and land management. The Strategy is a non-statutory county-wide guidance document which aims to direct and drive the delivery of Green Infrastructure in Worcestershire; and inform relevant strategies and plans of partner organisations.

61. The Strategy identifies mineral extraction and restoration as a main opportunity to deliver green infrastructure. The Strategy notes that Green Infrastructure closely reflects the principles of sustainable development identified in the NPPF. The delivery of Green Infrastructure is, therefore, likely to be an increasingly important consideration when assessing the extent to which proposals such as mineral workings constitute sustainable development.

62. The Strategy considers the key to planning and managing green infrastructure in minerals extraction and restoration is to consider the site in its context. This includes considering the features of the site and the networks of habitats, sustainable transport routes and water courses that surround it. It notes that the robust mechanism for delivering Green Infrastructure through mineral extraction and restoration is still to be established, but modern planning permissions for mineral workings require a restoration and aftercare scheme. The Strategy also notes that

many operators are sympathetic to environmental enhancement, which is supported by the Minerals Products Association. It, therefore, considers that it is likely that there is significant potential to incorporate Green Infrastructure concepts within a wide range of restoration schemes.

Draft Mineral Working and Restoration for Green Infrastructure: Concept Statement – Ryall North (October 2014)

63. The Draft Ryall North Concept Statement has been prepared by a working group of the Worcestershire Sub-Regional Green Infrastructure Steering Group, including Worcestershire County Council, Natural England, The Environment Agency, Worcestershire Wildlife Trust, The Earth Heritage Trust, Nature After Minerals and The Forestry Commission and forms part of the wider evidence gathering for the Emerging Minerals Local Plan.

64. The site referred to as Ryall North in the Draft Concept Statement is located north of the town of Upton-upon-Severn on the eastern bank of the River Severn. The site has been proposed for sand and gravel extraction in response to the Emerging Minerals Local Plan call for sites by two separate consultees: Croome Estate (majority landowner) proposing a larger area (about 126 hectares) and Cemex (mineral operator) proposing a smaller area (about 34 hectares), which sits within the area proposed by Croome Estate. For the purpose of the Draft Concept Statement the larger area has been considered and is referred to as Ryall North. The Ryall North site boundary to the north and west is formed by the River Severn and to the south by the A4104. Ryall's Court Farm is situated on the eastern boundary.

65. The Draft Concept Statement sets out the restoration and aftercare principles for Ryall North, and identifies which Green Infrastructure functions they are likely to contribute towards and the Green Infrastructure value. It also provides guidance on how these restoration and aftercare principles could be implemented within the context of the Ryall North site.

66. In summary the Draft Concept Statement identifies the following restoration principles for the Ryall North site:

- Retain unity and Green Infrastructure function of River Severn corridor
- Ensure flood flow paths are maintained to contribute to protect Upton-upon-Severn and other downstream areas
- Enhance planting along hedges and ditches
- Link/buffer existing grassland habitats
- Avoid woodland tree cover
- Create lowland wetland grassland and water meadow habitat
- Create biodiversity rich mosaic of water bodies linked to the existing networks of watercourses and ditches
- Maximise marginal habitat along existing and new water bodies
- Utilise the creation of water bodies to address surface water flooding issues
- Layout of water bodies and ditches to reflect historic field enclosure patterns
- Enhance public access and recreation focusing improvements on Severn Way
- Retain openness of views from public footpaths

- Retain functions of meadows to south of the site for local music and water festivals, and
- Provide information about the legacy of the site to local communities and interest parties.

67. The Draft Concept Statement states that aftercare should be directed to maintaining the functionality and biodiversity value of wetland and floodplain ecosystems and the floodplain over the long-term. Long-term management of the site should be secured by a management plan which gives consideration to managing transitional, successional and climax habitats, biosecurity, general site maintenance and funding for these management requirements.

Consultations

68. Worcestershire County Council carried out public consultation of the planning application between April and May 2015. Following the consideration of the comments that were received on it, the applicant wrote to the County Council in October 2015 submitting additional information in respect of the Environmental Statement, in relation to ecology, noise, soil storage, barge operations, public rights of way, after-use, access, heritage, mineral reserves, power cables, public consultation, landscape, hydrogeology and hydrology and flood risk. In accordance with Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 the Mineral Planning Authority carried out public consultation on this additional information (November to December 2015).

69. Following the consideration of the comments that were received on the additional information, the applicant wrote to Worcestershire County Council in February 2016 submitting further additional information in respect of the Environmental Statement, relating to flood risk and a private water supply. The County Council carried out a further public consultation exercise, in accordance with Regulation 22 between March and April 2016. The comments below summarise the latest comments from consultees; and the totals the number of letters of representations received on all three consultations combined.

70. **Earls Croome Parish Council** state that they recognise that comments have to be made regarding the current application, however, there is a strong local opinion which suggests the application should include a greater proportion of Fish Meadow, which has similar mineral deposits.

71. The proposed application affects numerous properties and local residents on both sides of the River Severn. Two of these properties are in Earls Croome Parish, namely The Day House and Day House Flat which will be profoundly affected by the proposed development, as they border the proposed extraction area. They now consider it is of paramount importance that the proposed topsoil screening bunds located immediately in front of the Day House properties are carried out to afford adequate noise attenuation to these properties. The bunds should be adequately maintained. Additionally appropriate measures should be in place to maintain safe access to and from The Day House and Flat at all times.

72. The access to the Day House and Flat is also going to be seriously affected by the storage of the subsoils and overburden on a field known as "old lands", a traditional ridge and furrow field that has been set to permeant pasture for hundreds

of years and would destroy the ridge and furrow earthworks. The applicant should re-consider this element of the proposal.

73. The applicant does not state how Ryall Court Lane would be used on a daily basis by employees travelling to and from the site, or during the various campaign extraction periods, and for the breakdown of the site. Ryall Court Lane is totally unsuitable in width and construction to cater for the heavy plant and machinery required for the enabling work and other continuing use. The nuisance to residents and potential damage to the lane, property and hedges could be eliminated if the applicant constructed a separate access to the site from the A4104, or use an existing lane to the West of Ryall Court Lane. It would also seem appropriate that with the increase in traffic the opportunity should be taken to raise this area of the A4104 above flood level and at the same time improve the junction with the A38 and A4104.

74. The Parish Council notes that no noise level data has been submitted for the barges, which will pass through the built up area of Upton-upon-Severn. Furthermore, they recommend that barges should not operate on weekends or bank holidays. They also consider that the proposed wharf should be re-located in a central location to the excavation area, roughly opposite the Sewage Treatment Works where noise levels would be better absorbed and not affect so many residential properties.

75. The Parish Council are not clear what the impact of the proposal would be in time of flood. They request that the Environment Agency provide an independent Report. They also question whether the proposed surge pile would be a health and safety risk and impact on water quality (sediment) in times of flood. They also question whether the proposal would provide flood attenuation benefits as the area to be excavated would be taken down below the water table and would, therefore, not absorb any more water than the existing flood plain.

76. The private water supply to The Day House and Ryall Court Farm is of paramount importance to the Parish Council. All measures must be taken to ensure that there is no interruption or contamination of the water supply to these properties.

77. They request that Public Rights of Way must be kept clear and passable at all times with appropriate with routes clearly marked to ensure the general public do not stray into areas which are unsafe, or where vehicles are operating.

78. The Parish Council are aware of the proposals tabled by Upton Town Council, Ripple Parish Council and The Rowing Club in their pursuit for an international rowing lake and Earls Croome Parish Council continues to support that proposal.

79. **Ripple Parish Council** has no objections in principle, but considers that Ryall Court Lane is an unsuitable access for this proposal and that an alternative access along the A4104 should be sought. They comment that Ryall Court Lane serves 18 properties as well as Ryall's Court Farm. The farm runs an organic food business which in itself generates commercial traffic. No mention is made that the lane is also increasingly utilised as an access route to major commercial festival events on Fish Meadow. These generate thousands of visitors and a significant degree of heavy commercial vehicles during the setting up and dismantling of festival infrastructure. There is also the potential for further domestic planning applications in the area,

which would require access along Ryall Court Lane. Upon completion of the restoration of the site, the proposed lake is intended for public access and amenity use and would be suitable for fishing, boating and quiet recreational pursuit. All this implies that visitors would not always be able to reach the lake on foot and that in the long-term substantial vehicles moments would be established. None of these have been considered by the applicant.

80. The Parish Council welcome the movement of aggregates via the River Severn, but any further developments which require additional vehicle movements within the A4104 Upton/Ryall area should only proceed in conjunction with a Highways Authority scheme for the raising of the A4104 above flood level and improving the A4104/A38 road junction.

81. Public Rights of Way must be kept clear and passable at all times with appropriate gates and warning signs displayed to ensure the public cannot stray across Footpaths and Bridleways when vehicles are crossing.

82. Further consideration is required to protect the Day House and Flat from excessive noise during Phase 2 operations. Furthermore, no noise level data has been submitted as to the level of noise created by the barges, particularly as they pass through the built up area of Upton-upon-Severn. They consider that the imposition of noise mitigation conditions may be appropriate.

83. Whilst barges have been in operation between the Ripple and Ryall Grove Wharfs for a number of years, the effects of operating a commercial barge service along a stretch of river through the built up town area of Upton-upon-Severn needs further consideration. There are also safety implications with regards to the Upton Marina exit/entrance and recommend the applicant submits a Management Plan for the barging operations. They recommend that the working hours be restricted to no operations during weekends during the holiday season and no operations during the periods of Riverside Town events.

84. Subject to an amended vehicular access off the A4104, the restoration proposals should consider the most appropriate leisure facilities, which may benefit the area. The Parish Council has been approached by local consultees, who have indicated that further exploitable mineral deposits lie beneath land, immediately south of the proposed site. The Parish Council has also received a report and presentation by Upton Rowing Club on the opportunity for utilising an extended lake to develop water sports and leisure activities around the Upton-upon-Severn communities. If further extraction were to take place within a southern site, whilst the Parish Council may wish to comment further on potential adverse effects elsewhere within the parish, there are commendable aspects of the rowing club proposals worthy of further discussion as part of an integrated approach to restoration of the proposed lake, in the event of further southern reserve extraction. The Parish Council, consequently request that any decision on this application is deferred until such time that the applicant and landowners make a clear statement on the volume of exploitable deposits on land to the south of the proposed site and their intentions on whether this would be extracted at some future date. This is to ensure that a long-term view may be taken on the lake restoration proposals forming part of this application. At the same time the implications for the future of the area known as Fish Meadow, which brings substantial benefit to Upton-upon-Severn as the site for festivals and events could be assessed.

85. Finally the Parish Council recommend the imposition of a condition requiring a community liaison group.

86. **Upton Town Council** objects to the proposal, stating that they wish to stress that they do not reject the idea of local sand and gravel extraction per se, but that they consider the proposed restoration scheme is not adequate and there is not enough emphasis on leisure and the enhancement of local amenity in the after use of the land. The Town Council would welcome additional gravel extraction and, on cessation of the extraction, the creation of a lake of sufficient magnitude to allow for a 1,000 metre rowing course with improved access as proposed by Upton Rowing Club.

87. The Town Council consider that a 1,000 metre rowing lake would be a great asset to Upton-upon-Severn and the surrounding area and would go some way to mitigate for the disruption and inconvenience of the many years of sand and gravel extraction that would precede it. Should an amendment or new application be forthcoming that includes these features, the Town Council would be inclined to look more favourably upon the proposal.

88. **Hanley Castle Parish Council (Neighbouring Parish Council)** has no objections in principle, subject to the imposition of conditions requiring any lighting of the wharf area to be turned off after working hours; any fixed plant including pumps, generators, powered conveyors and such like to be fitted with silencers; any mobile plant in use on the site, to be fitted with 'white noise' reversing warnings alarms; and operating hours and barge movements should be restricted with no working or barge movements on Saturdays. They also comment that the applicant proposes 12 barge loads per day of 180 tonnes each, equating to 2,160 tonnes per day. To move the anticipated 180,000 tonnes per annum would require barging operations on 84 days only. It therefore seems unreasonable to be proposing up to 12 barge movements per day all year round. The Parish Council request that the number of barge movements be reduced to better match the volumes to be transported.

89. **Severn Stoke & Croome D'Abitot Parish Council** has made no comments.

90. **Malvern Hills District Council** supports the proposal in principle, recognising the economic benefits that arise from mineral extraction, subject to the imposition of conditions regarding landscape mitigation and enhancement; long-term management of the site; minimising the impact upon residential amenity (noise, dust, hours of operation) and tourism; highway mitigation / construction management plan and provision of pedestrian refuges along Ryall Court Lane; biodiversity mitigation and enhancement; flooding, surface water drainage and pollution mitigation / enhancement; Public Rights of Way protection / enhancement; minimising the impact upon the waterfront and River Severn; and assessing and minimising the impact upon the ridge and furrow earthworks.

91. **Historic England** has no objections, commenting that this planning application should be determined in accordance with national and local policy guidance. They recommended that the specialist conservation advice of the District Council's Conservation Officer should be sought.

92. **The County Archaeologist** has no objections, subject to the imposition of a condition requiring a programme of archaeological works.

93. They comment that whilst there remains some uncertainty about the nature and significance of the earthwork features identified on Quay Meadow, the County Archaeologist is broadly in agreement with the applicant, who suggests that the earthworks are probably the result of previous post-medieval quarrying / mineral extraction and are of low significance.

94. The pre-determination trial trenching that has been requested by the County Archaeologist is intended to provide a degree of certainty with regard to these questions of origin and significance. However, given that there are clearly significant issues regarding access permissions and entry fees that the applicant does not appear able to resolve and which are essentially outside their control it would seem that they are unlikely to be in a position to undertake the requested fieldwork at any point in the foreseeable future.

95. In these circumstances and given that the applicant has taken reasonable steps to facilitate the requested pre-determination fieldwork, in addition to having undertaken a borehole survey and producing an archaeological desk-based assessment and Cultural Heritage chapter for the Environmental Statement, the County Archaeologist considers it would be unreasonable to continue to recommend non-determination of the application until the requested pre-determination fieldwork has been undertaken, particularly as the area in question forms a relatively small part of the overall application site and non-determination of the application on these grounds could effectively be taken to result in the sterilisation of the mineral resource across the much larger application area.

96. The applicant has stated that they are fully committed to a programme of post-determination archaeological mitigation works to be undertaken prior to the commencement of development / in advance of mineral extraction. The County Archaeologist considers that in the current circumstance and for the reasons noted above they are of the opinion that a reasonable and practicable approach would be to forego the requirement for pre-determination evaluation trenching and to deal with any further archaeological work that is required as part of the post-determination mitigation strategy.

97. With regard to the ridge and furrow earthworks in the proposed soil storage area. The County Archaeologist is of the view that the probable medieval element of the ridge and furrow earthworks would not be threatened by the proposed soil storage operations. The likely post-medieval ridge and furrow is considered to be of local importance / low significance. The County Archaeologist has no objection to this area being used for soil storage purposes, subject to no other suitable areas being reasonably and practicably available. In light of the low significance of this heritage asset and the clearly defined impact of the proposed scheme upon it evaluation trenching of the ridge and furrow would not be warranted. Any mitigation requirements in this area can be dealt with post-consent, by means of a suitably worded condition.

98. **Scheduled Ancient Monuments Society** has no comments.

99. **Commercial Boat Operators Association** represents operators of freight carrying vessels in the UK's inland and estuarial waterways and is accepted by the Government as the representative industry body. The Commercial Boat Operators Association strongly supports this proposal.

100. **Canal and Rivers Trust** has no objections, stating that in principle they support the use of the River Severn to carry freight. However, they have considered this proposal against the needs of other users of the waterspace and to ensure that the proposal does not have an adverse impact on navigational safety. They consider that the submitted Freight Risk Assessment is in line with their requirements, and therefore, they have no objections to the proposal. However, prior to the commencement of movement of freight from the proposal, they recommend that the applicant carries out a series of trial runs, particularly to include approaching and turning at the proposed wharf site, to test the risk assessment scenarios and assumptions. The Trust should oversee these trials to ensure that the new freight operations are safe and not detrimental to the navigation or to other users.

101. **Inland Waterways Association** has no objections, stating that they promote the use of all waterways for commercial traffic. The existing use of the River Severn by barges transporting sand and gravel has not caused any problems.

102. **Environment Agency** has no objections, subject to the imposition of conditions regarding Flood Management Plan; phasing; and an amended restoration plan, which includes enhancements to the River Severn to increase the ecological value of the river. These should include: replacement fencing, tree planting, and bank profiling to allow a greater diversity of habitats at a range of flows.

103. They state that the submitted Flood Risk Assessment is supported by detailed hydraulic modelling that has considered a range of flood event returns. The Environment Agency are satisfied that the fluvial flood risk to and from the proposal has been robustly assessed; and demonstrated that there is no adverse impact to third parties with regards to flood risk from the River Severn.

104. Flood Defence Consent is required from the Environment Agency for the works within 8 metres of the River Severn.

105. The Environment Agency notes the concerns of local residents with regards to the location of the surge pile. The Environment Agency considers that the surge piles are classed as 'water compatible' development and, therefore, are acceptable in areas at risk of flooding. However, this is only where assessments have been undertaken that show that this would not have adverse impacts to flood plain compensation, flood flow routes and impacts to third parties. It is sequentially preferable to locate such features at the areas at lowest risk of flooding, as the application has proposed. Indeed, this is a fundamental guiding principle of the NPPF and Planning Practice Guidance.

106. The Environment Agency notes the video footage submitted by a local resident showing the surface water flow routes. The Environment Agency has not assessed the proposal with regards to surface water management or the impacts upon the ordinary watercourse. They advise consulting South Worcestershire Land Drainage Partnership and the Lead Local Flood Authority upon these matters.

107. The Environment Agency have reviewed the submitted Report regarding the abstraction well at Day House Cottages, and agree with the conclusions that it is *"unlikely that the proposed quarry development will have an impact on the private water supply well at Day House Cottage"*.

108. With regards to biodiversity, the Environment Agency are disappointed the proposal has not been revised to incorporate further measures to enhance biodiversity, namely a diverse mosaic wetland that incorporates extensive shallows and reed beds; noting that sand and gravel extraction represents one of the best methods of Britain achieving its targets for creating priority wetland habitats and contributing towards the aims of the Water Framework Directive.

109. **Public Health England** has no objections, recommending the imposition of conditions to protect human health, in particular to control and mitigate dust emissions. They confirm that they have no significant concerns regarding risk to health of the local population from this proposal, subject to the applicant taking all appropriate measures to prevent or control environmental emissions, in accordance with best practice.

110. **Worcestershire Regulatory Services (Environmental Health Officer)** has no objections, stating that the Noise Assessment indicates that noise levels would be within guidance levels, as long as the proposed mitigation measures are implemented including the topsoil bund to mitigate noise impact on Day House Cottages.

111. **Worcestershire Regulatory Services (Air Quality, Dust and Contaminated Land)** has no objections to the proposal.

112. **South Worcestershire Land Drainage Partnership** has no objections stating that as the application site is located within Flood Zone 3, consultation with the Environment Agency is required.

113. **Lead Local Flood Authority** has no objections, stating that a Flood Risk Assessment has been submitted in support of this application, which states that "the design life of the quarry is estimated at 7 years, which implies that peak flow on the River Severn will have increased by less than 10% by the time of the quarry's restoration phase. This may reduce the standard of protection of the defensive bund below five years, but in view of the short design life, the effects of climate change are expected to be small and could probably be ignored." The Lead Local Flood Authority would like it to be ensured that if the life of the quarry is extended then an appropriate allowance for climate change is incorporated into the plans.

114. **Severn Trent Water Limited** has no objections to the proposal, subject to the imposition of a condition requiring details of foul and surface water drainage.

115. They advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. They note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which would come into close proximity of the works, the applicant is advised to contact Severn Trent Water Limited to discuss the proposals.

116. **The Forestry Commission** has no objections, stating that the application is within 500 metres of ancient semi-natural woodland, however, the scale of the proposals are such that there would be no effect on the woodland. It is Government policy to replace any trees lost through development and the Commission trust that the Mineral Planning Authority will take this into account when determining this planning application.

117. **The County Footpath Officer** has no objection, stating that the proposal would affect the Public Rights of Way of Footpath RP-501 and Bridleway UU-508, which is part of the Severn Way, and is a popular recreational route. Vehicular access also appears to affect a Public Right of Way. It should be noted that under Section 34 of the Road Traffic Act 1988 any person who, without lawful authority, drives a motor vehicle on a Public Right of Way commits an offence. The applicant should make themselves satisfied that they, and anyone else who may use Public Rights of Way for private vehicular access in connection with the proposed development, has a right to do so.

118. Any proposed gates on existing or proposed Public Rights of Way diversion routes should be agreed with Worcestershire County Council's Countryside Service. The County Footpath Officer confirms that they are in liaison with the applicant regarding the alterations of the Public Rights of Way, and that Cemex have asked them to process the necessary path order(s).

119. They consider that the proposal would have no detrimental impact upon Public Rights of Way provided that the above matters are noted and the applicant adheres to their obligations to the Public Rights of Way.

120. In response to comments from the Ramblers Association regarding a Creation Agreement. The County Footpath Officer is of the view that a Creation Agreement is not required in this instance, as the Footpath could be secured as part of any detailed Restoration Scheme condition; and also raises reservations regarding the use of Creation Agreements prior to mineral extraction commencing as sometimes the route subject to the Creation Agreement is not physically available when mineral extraction ceases.

121. **The Ramblers Association** comments that several Public Rights of Way would be affected by the proposal, including the Severn Way which is of national importance. They consider that the proposal would be harmful to the attractiveness of the open countryside in the short to medium term. It would further cause harm to the heritage value of the locality and at least two Public Rights of Way would be seriously reduced in value or lost altogether.

122. However, the Ramblers Association recognise that unlike most forms of development, quarrying has to take place where the mineral is located and minerals are essential to a successful economy. They have examined the Adopted Minerals Local Plan and note that the Ryall North Inset Proposals Map includes much of the site as a preferred location for mineral working. They are also aware that the Emerging Worcestershire Minerals Local Plan identifies the locality as an Area of Search for sand and gravel. In view of this, and if the Mineral Planning Authority is satisfied that the need for minerals is such as to justify their exploitation in this location, then the Ramblers Association are prepared to support the proposal, subject to the County Archaeologist not objecting to the proposed location for the

temporary storage of subsoils and overburden sited on the remains of a historic fields system; and the imposition of conditions to ensure that the diversion of Bridleway UU-508 around the proposed wharf is safe for walkers and maintained in a usable condition; that Bridleways EA-547 and RP-505 are not obstructed and remain safe; steps are taken to ensure that the proposed new Footpath along the west of the application site and linking to the Severn Way is created before the restoration works are complete. They request that this new Footpath be explicitly required as a part of the grant of planning permission by way of a Creation Agreement between the land owner and the County Council; and that Footpaths EA-519 and RP-501 are closed by the use of a Temporary Closure Order with a condition and obligation to divert it to the route shown on your Restoration Plan once extraction is completed.

123. However, if the Mineral Planning Authority is not satisfied that the need outweighs the harm then the Ramblers Association would wish to see the application refused on these grounds. Given this qualified acceptance of the proposal the Ramblers Association wish to ensure that public access to the river bank and other significant rights of way are maintained during extraction operations.

124. **Malvern Hills District Footpath Society** has no objections to the proposal, stating that the Public Rights of Way arrangements during and after the proposed sand and gravel extraction operations appear to have been comprehensively addressed by the applicant with only a minor diversion of Bridleway Upton UU-508 during the proposed works and the diversion, but eventual re-instatement of Footpath RP-501. They comment that during Phases 1 and 2 there would appear to be a need for considerable movement of material across Bridleway EA-547 to the overburden and subsoil storage area, located south of Day House Cottages. However, following the submission of further information from the applicant, they have confirmed that they are content with the proposed crossing details.

125. **The British Horse Society** has no objections to the proposal, and note that they are reassured by the proposed crossing design details, but query the use of double gates and request that the applicant considers installing horse friendly designs that would allow riders to open and close the gates without dismounting. The Society appreciates the applicant's commitment to grade the haul road to prevent it becoming rutted. They are satisfied with the applicant's commitment to retain and enhance the hedges screening Bridleways RP-505 and 506 and the consequent mitigation of visual impacts; and they are content with the mitigation measures proposed in relation to the construction of temporary topsoil screen bunds near The Day House and Flat and Bridleway EA-547.

126. Finally, the Society are disappointed that the lakeside walk proposed to compensate for the loss of Footpath RP-501 is not to be given Bridleway status. For this to be a viable proposition in the long-term, the new walk would need to link with other Public Rights of Way that have Bridleway status or above, which could be achieved by revising the link at its northern end and upgrading RP-508 from Footpath to Bridleway under Section 25 of the Highways Act. This is not, in itself, a ground for objection, just a missed opportunity.

127. **The Open Space Society** has no objections, stating that they are very content with what is proposed, and that the restoration proposals are particularly satisfactory.

128. **The Campaign to Protect Rural England** has no comments.

129. **The County Highways Officer** has no objections to the proposal.

130. **The County Landscape Officer** comments that she requires clarification from the applicant regarding the red line application boundary; an amended Restoration Plan to show the location of all existing trees and hedges to be retained within and in the vicinity of the application site, noting that scrub woodland is not acceptable; requires a detailed planting plan; details of pollard management; and recommends the imposition of a condition requiring the protection of retained trees. She notes that the applicant has considered the impact on views from The Park, and its setting. She is satisfied that the impact on the setting of The Park would be acceptable, as mineral extraction would be carried out on a campaign basis. However, an undertaking from the applicant to allow bankside vegetation and hedges to grow up and thus provide maximum screening should be sought.

131. Following comments from a local resident, the County Landscape Officer commented in respect of the soil storage area on an area of ridge and furrow as follows:

- The archaeological value of the ridge and furrow earthworks are outside her area of expertise, but it does seem short sighted to allow the destruction of any heritage feature if an alternative could be found
- She agrees with the local resident's concerns regarding the effective damming of the small valley. This takes run-off from adjacent land outside the application area and the deposition of soil in this location would impact on this flow. She recommends that more detail should be sought from applicant to show cross sections through the soil heaps, volumes of stored material and methods of accommodating this run-off, and
- Cross sections through the soil heaps would also give an indication of height and, therefore, of potential visual impact. However, this field is fairly visually contained and she does not anticipate that the adverse visual impact would merit any greater mitigation than allowing hedges to grow up.

132. **The County Ecologist** has no objections to proposal and welcomes the opportunities which the development potentially offers, especially the provision and enhancement of Green Infrastructure assets and the protection of, and potential enhancement of biodiversity resources. They particularly welcome the opportunities created through Biodiversity Action Plan (BAP) habitat creation, including the proposed bird hide and they recognise that the Restoration Strategy has potential to deliver much broader biodiversity enhancement measures of benefit to the locality and county.

133. The County Ecologist recommends the imposition of conditions requiring a CEMP relating to biodiversity; timing of vegetation clearance; measures to minimise or remove the risk of introducing non-native species; restoration specifications for bankside re-instatement ; details of management of temporary and small-scale features including soil bunds (i.e. for aesthetic, floristic and invertebrate value); periodic stakeholder review process within the submitted Ecological Management Plan; details

of interpretation boards within the nature conservation area, Great Crested Newt Mitigation Strategy; Monitoring Strategy; lighting scheme; dust mitigation; inclusion and specifications of compensation and enhancement measures including: barn owl box(es), kingfisher/sand martin tunnels and an otter holt; and further ecology surveys should development not commence or having commenced is suspended for more than 12 months.

134. The submitted assessment identifies no licencing implications with regards to disturbance effects on bat species. Minor impacts to individual bats, however, predicted impacts would be more than offset by habitat enhancements proposed, and any commuting route severance (e.g. in the form of hedgerow removal) is considered acceptable and has comprehensively evaluated.

135. Without prejudice to any conclusions reached by Natural England licencing team, the County Ecologist considers that there is sufficient information gained through multiple roost inspections to support the conclusion that the roost within the application site is likely to be a sporadically occupied transit roost of low conservation significance. Given that the species identified (Daubenton's bat and/or noctule bat) as most likely to be occupying this roost are historically known to use artificial roost boxes, confirmation of the specification, number and location of the replacement roosting feature should be sufficient for the purposes of imposing and monitoring a planning condition which secures this compensation.

136. They note that a letter of representation has been received providing information regarding otters in proximity to the site. The County Ecologist agrees that further surveys could potentially identify additional signs of otter transit throughout the site. They also agree with the findings of the submitted Otter Survey which identifies that the habitats within and adjacent to the site do not have the potential to hold an otter holt or couch and are unsuitable for foraging otters. However, on restoration of the site, there should be considerable additional aquatic foraging and commuting resources for otters. While this does not provide additional rationale for further surveys at this stage, it does highlight the value which could be realised for otters if an artificial otter holt were to be implemented.

137. They commend and entirely support any opportunities to secure management of biodiverse habitats for a longer-term (beyond 5 year period).

138. **Worcestershire Wildlife Trust** has no objections, subject to the imposition of conditions requiring a CEMP, updates to surveys as recommended by the Environmental Statement; restoration of the site in accordance with the Restoration Scheme; and longer term aftercare and maintenance.

139. They raise concerns that the proposed route of the footpath that runs north along the north-eastern part of the site. This falls within the replacement hedgerow for some distance and runs alongside the nature conservation area of the lake. The Wildlife Trust would prefer to see this footpath routed outside, east of the hedgerow if possible so as to reduce disturbance to this part of the site. However, they do not consider that this constitutes a refusal reason, and fully appreciate the desire to align the footpath as closely as possible to the original footpath line. Accordingly the Trust does not raise an objection if the option to re-route the footpath outside of the hedgerow proves to be unacceptable after consideration of all the various issues involved.

140. They also comment that they welcome that the submitted Environmental Statement addresses comments made previously at pre-application stage by the Wildlife Trust, however, they note that the Ecology Section of the Environmental Statement uses some unorthodox assessment methods, but the Wildlife Trust are content that the overall findings are robust. They wish to defer to the County Ecologist for all other comments on survey methodology and protected species protocol. They welcome the proposed phased extraction and progressive restoration, as this should limit the environmental impact of the quarry during its operational life. The Wildlife Trust recognise that the proposed Restoration Strategy has been informed by guidance in the Draft Ryall North Concept Statement, but that practicalities associated with overburden volumes have led to more open water than anticipated by the Draft Concept Statement. The Wildlife Trust do not consider the departure from the concept to be an overriding concern, primarily because they recognise that where possible species rich grasslands and other habitats are included in the proposed Restoration Scheme. They are pleased to note that attempts have been made to separate the nature conservation elements of the lake-based restoration from the amenity areas and it would be important that this separation is effective in practice if the ecological enhancements proposed are to be realised.

141. The Wildlife Trust note that their concerns regarding the provenance of any seed mixes have been taken into account by the applicant and consider the proposed solution to be acceptable. However, given the proximity of the downstream SSSI grassland, the Wildlife Trust recommends that the Mineral Planning Authority seek confirmation from Natural England that they are also happy with the proposed Restoration Strategy. They are also pleased to note that all veteran trees lost to the development footprint would be retained in the restored areas as monoliths. Where retention is not possible this approach seems to offer a sensible alternative.

142. **Natural England** comments that this application is within 1.4 kilometres of the Upton Ham SSSI. They are satisfied that the proposed development would not damage or destroy the interest features for which the site has been notified. Natural England does not consider that there are any specific mechanisms by which Upton Ham SSSI could be impacted by the proposal, in particular they have sought specialist hydrological advice and do not believe there would be any mechanisms for hydrological impact upon this SSSI. They consider the potential impact upon the SSSI from dust to be minimal.

143. With regards to Protected Species Natural England comment that in this specific case the survey work undertaken is satisfactory, and therefore, they consider that the methodologies are appropriate for this scheme.

144. With regards to soil management and soil storage, Natural England has commented that they are happy with the proposals. The restoration plan is considered acceptable and is supported by all the significant partners (working group of the Worcestershire Sub-Regional Green Infrastructure Steering Group) and the applicant refers to the Ministry of Agriculture, Fisheries and Food (MAFF) guidance on handling soils and, therefore, Natural England has no issues with soils and soil management for this planning application.

145. **Royal Society for the Protection of Bird (RSPB)** has no objections, noting that they support the proposed restoration to a wetland habitat because it would make a positive contribution to the quality and extend Worcestershire's natural habitats and ecological network. They state that they would be disappointed if additional post-restoration land use was given over to active water based recreation as this would severely limit the future value of the wildlife habitat to be created. The RSPB consider that they is scope to improve the restoration scheme, namely: create a reedbed island to further isolate and enhance the northern ecological conservation area; finger inlets could excavated into the surrounding banks to free up more material to create the reedbed island and create an enhanced shoreline for wildlife; request further details of the proposed wet areas of the northern scrape, including position, profile and surfacing of nay islands; consider the proposed footpath diversion running to the east of the lake would benefit from screening between the footpath and wetland area as to not disturb wildlife; suggested an artificial sand martin cliff could be created; a long-term management plan should be prepared that goes beyond the initial 5 year aftercare period.

146. In response to letters of representation objecting to the proposal, due to the impact of the existing overhead powerlines on the southern boundary of the site adversely impacting upon flocking birds, the RSPB has confirmed that inappropriately sited power lines can be a threat to wetland birds, and may create conditions leading to bird strikes on the wire. However, the main species at risk in this area would be herons, cormorants, mute swans and (feral) geese. These are all species of low conservation concern, being feral, introduced goose species, or native wild birds whose populations are stable or increasing. Given that the birds likely to occur here are of low conservation concern and are not likely to appear in numbers of more than local importance, the RSPB would not press for the poles to be moved in such circumstances. They suggest that attaching markers/reflectors to the wires is a proven and cost effective mitigation measure; and request that this is imposed as a condition.

147. **Earth Heritage Trust** has no objections, confirming that there are no designated geological sites likely to be affected by this proposal. If, however, during excavation any rock or interesting sand and gravel exposures are uncovered, the Earth Heritage Trust request to be notified so that they can arrange to visit the site and record these features; and during restoration, if any good exposures remain, they would like them to be preserved and become a feature within the Restoration Scheme.

148. **West Mercia Police** has no objections to the proposal.

149. **Hereford & Worcester Fire & Rescue Service** has no comments.

150. **Health & Safety Executive** comments that Environmental Impact Assessments are concerned with projects which are likely to have significant effects on the environment. HSE's principal concerns are the health and safety of people affected by work activities. HSE cannot usefully comment on what information should be included in the Environmental Statement of the proposed development. However, the Environmental Statement should not include measures which would conflict with the requirements of the Health and Safety at Work etc Act 1974 and its relevant statutory provisions.

151. **Western Power Distribution** has no comments.
152. **Worcestershire Local Enterprise Partnership (WLEP)** has no comments.
153. **The Garden History Society** has no comments.
154. **Hereford & Worcester Gardens Trust** has no comments.
155. **Emergency Planning** has no comments.

Other Representations

156. Prior to the submission of the planning application, the applicant undertook public and stakeholder engagement on the proposal, holding a two day exhibition in the Memorial Hall in Upton-upon-Severn on the 13th and 14th November 2014. The first day was attended by Malvern Hills District Council, Worcestershire County Council, the Parish Councils of Hanley Castle, Ripple, Upton Town and Earls Croome and the landowner's agents. The second day of the exhibition was open to the public. The exhibition was attended by about 40 individuals of whom 23 signed the attendance register. 8 feedback cards were received raising concerns regarding surface water drainage, dust, noise, access, the possibility of re-locating to wharf further to the south, objections to the possible future working to the south of the site at 'Fish Meadow', potential impact upon festivals at Upton-upon-Severn, and that the draft restoration scheme should focus less on ecology and more on informal recreation.

157. The application and the accompanying Environmental Statement have been advertised in the press, on site and by neighbour notification. To date 33 letters of representations objecting to the proposal have been received, this includes a syndicate of 30 anglers, Upton Rowing Club, and a letter of representation that outlined the informal minutes of meeting discussing the proposed wharf location, and attached 3 letters in support of re-locating the wharf. In addition, a petition has been received containing 6 signatures objecting to the proposal.

158. 2 letters have also been received from Harriett Baldwin MP forwarding a letter of representation from a member of the public objecting to the proposal; and a letter confirming that the Local MP met with representatives of Cemex and requested that the application is considered at the earliest possible opportunity, as any delay may lead to a hiatus and have a direct impact on those employed by Cemex locally.

159. 5 letters of representation have been received in support of the proposal, together with a petition containing 6 signatures supporting the current proposal. These letters of representation are available in the Members' Support Unit. Their main comments are summarised below:-

Letters of representation objecting to the proposal:-

Location of the proposed wharf and impact of barges

- Request that the proposed wharf is relocated to the south of Quay Lane opposite the existing Sewage Treatment Works. This would prevent barge traffic travelling past Quay Lane, and impact upon fewer residents, and would preserve the angling and water sports activities on this stretch of the River Severn. It would also be more

sustainable, as it would save on travel and fuel cost of dump trucks and barges for the applicant

- The informal minutes of a meeting of local residents, groups and representatives of the Parish Council accompanied a letter of representation. This meeting discussed the proposal and in particular the location of the proposed wharf. These informal minutes stated that 13 attendees were in support of re-locating the wharf, 1 ambivalent and 4 against the proposed re-location of the wharf
- Concerns that empty barges would travel up the river to the location opposite the Sea Scouts Boat House and turn around impacting on more of the river than envisaged
- The location of the wharf would have an adverse visual impact upon residents of Quay Lane and Day House Cottages
- Would have an adverse impact on residents' enjoyment of walks through fields belonging to Lechmere Estate
- Concerns regarding the siting of the proposed wharf and its impact upon Severn End and associated properties, in particular the holiday lets, as this would impact upon the happiness and peace of those letting the property, due to the persistent noise and lighting of the wharf, together with barges turning
- Adverse impact upon ecology and biodiversity, in particular the resident Kingfisher if the wharf is erected in the current proposed location
- Noise and dust impacts of loading barges in the proposed location, together with barges travelling along the river would have an adverse impact upon local residents and angling
- If the wharf was moved to the south, one local resident states that the Parish Council considers that the re-located wharf would have an adverse impact upon Oak View Cottage. This would only affect the view from the front of this property, which is considered acceptable by this local resident as they spend much of their time in the summer in their rear garden. If the wharf is not re-located it would have an adverse impact on views from the rear of this property
- Health and safety conflict between barges and smaller crafts trying to enter the river from the boat house at Severn End
- The proposed wharf, surge pile and haul roads would destroy an area of permanent pasture and protected under the European Union's Common Agricultural Policy legislation
- The application does not recognise the archaeological status of the field, where the proposed wharf, surge pile and haul roads would be located. The World War II anti-landing ditches and defences that were dug are clearly visible. The alternative site for a wharf and surge pile has no such constraints
- There is also an unusual array of ground disturbance within Quay Meadow. These appear to be within a sub-rectangular enclosure and are suggestive of industrial or settlement activity. While it is difficult to establish antiquity, Romano-British occupation is possible. Medieval activity would be supported by the site's clear relationship with the Hanley Quay Ferry site on the opposite side of the Severn. This should be assessed prior to determination of the application
- The applicant has not considered the suitability of the river depth at the point in which the wharf is proposed for berthing and loading of the barges. One local resident states that their own survey of water depth using Raymarine Sonar equipment indicates that the river at the proposed wharf position is not suitable for loaded barges when the river is running at low water levels and, therefore, dredging would be required. They suggest the applicant should carry out their own river bed survey and submit it as part of the application

- Severn End is used occasionally as a wedding venue and the impact of the proposed wharf is likely to have an adverse impact on the use of Severn End as a wedding venue, reducing income that contributes to the Lechmere Estate's finances and upkeep of Severn End and associated buildings
- Physical activity is promoted by the Government to promote health and prevent obesity, therefore, this proposal which would prevent the existing river being used by schools and other groups for recreational use should be refused
- A petition has been received containing 6 signatures objecting to the proposal and requesting the applicant to relocate the proposed wharf and surge pile to a location opposite Hanley Castle Sewage Treatment Works
- In response to the applicant's comments regarding relocating the wharf, a local resident has responded stating that the alternative wharf location would not be visible from the A4104 or Upton Bridge, the alternative surge pile location would be screened by hedgerows; and to facilitate this alternative wharf location the overhead powerlines would not need to be required to be rerouted, nor would it affect a drainage outfall.

Operational hours

- Propose reduced operating and restricted to Mondays to Fridays only, with no working on weekends or bank holidays.

Noise

- Adverse noise impacts upon residential properties, including the Grade II* Listed Building of Severn End and upon fishing in the vicinity of the proposed wharf
- The Noise Assessment was undertaken at a time of crop spraying which occurs 8 times per year. This would have severely impacted upon the background noise measurements submitted as part of the application. This is misleading and unrepresentative of the normal background noise level
- The submitted Noise Report suggests that proposed machinery on site each producing around 110dB each. This is a massive noise source and when multiplied by the number of vehicles this would increase. The background noise levels suggested in the Noise Report appear to be high, but even if these are adopted, the noise of the machinery above background noise could be as much as 20 times louder. This proposal would, therefore, pose a noise nuisance
- Question if noise from reversing alarms has been taken into account within the submitted Noise Assessment.

Dust

- Adverse dust emissions upon residential properties and angling.

Light

- Adverse light impacts upon residential properties.

Visual Impact

- Adverse visual impact upon residential properties and angling.

Vibrations

- The vibrations of lorries and explosives would affect the banks of the river and have terrifying environmental effects.

Traffic and highway safety

- Concerns regarding the use of Ryall Court Lane to transport sand and gravel, which is a single track lane, in constant use day and night by farm traffic and delivery haulage lorries. Large vehicles would not be able to pass each other, which would result in an accident
- Ryall Court Lane is in a bad state of repair and has never been maintained in any reasonable standard and there are no footways for pedestrians, creating a highway safety hazard
- The proposed vehicular route via Ryall Court Lane passes through private grounds of Ryall's Court Farm, where children play and would be a health and safety risk
- Vehicular access should be off the A4104
- It is likely that the current proposed leisure use proposed by the applicant would create more traffic than the mineral workings, which would be unacceptable along Ryall Court Lane
- Direct access from the A4104 would improve the suitability of the site for existing social and sporting activities, including Upton Triathlon and music and food festivals
- The use of Ryall Court Lane for daily service vehicles, personnel movement and heavy plant is contrary to Policy 8 of the Adopted Minerals Local Plan. The construction of an alternative access from the A4104 would alleviate the traffic and highway safety impacts of using Ryall Court Lane
- No Highways Assessment has been submitted
- Questions the proposed route through Ryall Court Farmyard.

Parish Council

- One local resident states that they support all comments made by Hanley Castle Parish Council.

Land Ownership

- The applicant claims that all the land within the blue line is land within their control; however, this is not the case
- None of the application site (red line) is under the control of the applicant as neither of the two landowners have yet signed an option agreement.

Consultation

- Disappointed by lack of pre-application public consultation carried out by the applicant with local residents who would be directly affected by the proposal. Commenting that the applicant failed to advertise the pre-application public consultation meeting in the local newspaper and there was no signage outside the venue to advertise the consultation event
- The applicant only engaged in the public consultation at the point at which only minor changes to the scheme would be possible, therefore, the applicant has failed to fully engage with the local community in a meaningful way.

Community benefits

- One local resident comments that Upton Town Council appear to want certain benefits from this application, but Hanley Castle should receive any benefits/works as their residents would bear the brunt of the works. The raising of the Hanley Road/flood defence works between Upton and Hanley Castle would benefit both communities.

Ecology and biodiversity

- The proposal through the increase in boats, traffic and the mineral extraction would create pollution resulting in a devastating effect on wildlife
- Zebra Mussels, an invasive species are spreading rapidly on our waterways and causing damage by clogging up pumping equipment. They have been found by anglers in this stretch of the River Severn. These mussels are known to spread in the ballast tanks and the outer hulls of water-craft. Therefore, barges turning near a known site of infestation would pose a risk to the spreading of this species
- The applicant has not considered the impact of the proposal on the aquatic environment
- The proposed provision of a lake in close proximity to overhead power lines, which are not proposed by the applicant to be realigned or undergrounded, would pose a hazard to flocking birds
- Considers the application was ambiguous regarding the presence of Otters.

Adverse effect on tourism/local businesses

- As a small community, the local economy is dependent upon local businesses putting money back into the community, which relies on tourists. The proposal would have a detrimental impact upon local businesses and an adverse effect upon attracting tourists to the area
- Severn End and Levant Lodge are used as a wedding venues and the impact of the proposal is likely to have an adverse impact on the use of these properties as wedding venues, due to large scale excavations, flashing amber beacons, vehicle noise and reversing sirens
- The southern area of the development would have an adverse impact upon the events held on Fish Meadows.

Adverse impact upon the countryside

- This proposal would destroy and pollute the countryside and this area of outstanding natural beauty.

House prices

- Concerns that house prices would be adversely affected.

Restoration and aftercare

- The applicant pays little regard to the full potential of an after use based on sport and leisure activities
- The applicant fails to show a plan for long-term maintenance of the site. Ecology led restoration costs money and effort to maintain
- The amended lake landform would attract further visitors and tourists into Upton-upon-Severn.
- Restoration and after-use as currently proposed is not agreed by the landowners, therefore, the applicant's proposal cannot be achieved
- Requests that the applicant provides a long-term maintenance plan that includes a source of funding
- Concerned that there are already two quarries within the locality which are serious eye sores and very little is being done to re-naturalise the area that have been exposed and when they are it is a very poor attempt
- Questions what controls would be in place to ensure the development is completed within 8 years; and what provisions would be in place to ensure the restoration works are carried out by the applicant.

Health and safety

- Residents and persons visiting Day House and Day House Flat would have to pass through the working site. This poses a serious health and safety issue.
- Health and safety risk due to potential conflict between leisure craft and the commercial barges.

Location of subsoils and overburden storage

- The proposed subsoil and overburden storage area is located on an area of pasture. Under the European Union's Common Agricultural Policy legislation, the pasture is defined as "Permanent Pasture" and may only be disturbed on application of licence from Natural England
- The subsoils and overburden storage area would be upon ancient ridge and furrow, which would destroy this archaeological feature
- An Archaeological Assessment and LIDAR composite accompanied letters of representation, which stated that the archaeological signature of the fields containing the ridge and furrow earthworks suggests that their significance may not yet be properly appreciated. The NPPF does require that non-designated heritage assets of archaeological interest should be considered as designated if they are demonstrably of equivalent significance to scheduled monuments.
- The application submission fails to take account of the historic and ecological value of the field proposed for temporary storage of sub-soils and overburden
- Potential impacts on ancient hedgerow
- The Ecological Survey identifies habitats for bats and badgers and a barn owl roost. As there is alternative soil storage area available elsewhere, it is considered that there is an overriding obligation for the applicant not to disturb these protected species
- This storage area would be visually intrusive from a kilometre away and is highly exposed to views from local Bridleways, Footpaths and from the Listed Building of Severn End
- Local residents suggest that there is a resolution to above issues subsoil and overburden storage issues, as an alternative soil storage area is available west of the application site, and immediately north of the overhead power lines, which form the southern boundary of the application site
- The applicant has not submitted any information regarding the volume, profile, or cross sections through the material to be stored in this location.
- The field proposed for this material storage and surrounding fields are registered as organic. The applicant does not demonstrate how the site would be managed so not to compromise the organic status
- In periods of heavy rainfall there is potential risk of soil erosion off steep sided elevations and for soil slippage onto the adjacent medieval area
- Creation and removal of subsoils and overburden area would have an unacceptable noise and dust impact to local residents.

Location and quantities of topsoil storage area

- Question the rationale behind placing about 30,000 tonnes of topsoil close to Day House Cottages. The construction of the bund itself would create noise, dust pollution and be a visual impact. Even with the bund, noise would exceed PPG guidance by over 1dB during Phase 2 at the northern end of the site. Furthermore, the application acknowledges that even with the bund the visual impact from Day House Cottages would be the greatest, as it is closest to the

site. Unless a more effective solution can be offered, the residents of Day House Cottage would prefer not to have the bund

- Consider the topsoil soil noise attenuation bund would be ineffective
- Consider the placement and removal of the topsoil noise attenuation bund would cause an unacceptable noise impact
- Local residents suggest that there is a resolution to above issues subsoil and overburden storage issues, as an alternative soil storage area is available west of the application site, and immediately north of the overhead power lines, which form the southern boundary of the application site
- Whilst this is located in the Flood Plain they consider that this is prohibitive, as the existing Ripple Quarry and Clifton Quarry store soils and overburden within the floodplain. Through the extraction of sand and gravel flood storage capacity would be increased
- Question the volume of topsoils to be stored in the topsoil bund
- Questions the location of topsoils, which would be stripped from the subsoil and overburden storage area.

Water environment

- The applicant fails to identify the borehole at Ryall Court Farm; fails to identify the private well at the Dayhouse; fails to identify the wetland field owned by the Ancient Parish of Ripple Trust and fails to include two river water abstraction locations
- The stored subsoils and overburden bunds would have the effect of creating a damn across the small valley. There is concern that this would result in the flooding of adjoining land. A CD was submitted containing a video showing surface water overland flow in the area of the proposed subsoil and overburden storage area
- Sediments from the exposed extraction area would pollute the adjacent River Severn.

Electricity Overhead Power lines

- The existence of the power lines would prevent a site extension to work the substantial deposits that lie to the south of the power lines. Suggest that the power lines are moved prior to work commencing.

Impact upon Listed Buildings

- The setting and value of Severn End, a Grade II* Listed Building and adjacent Grade II Listed Buildings would be harmed by this proposal, contrary to the NPPF
- The application does not assess the significance of the heritage assets and is, therefore, contrary to paragraph 128 of the NPPF
- The NPPF identifies a range of scale of harm to Listed Buildings and their settings and for the applicant to state that there would be no harm at all is considered disingenuous. Court cases such as Barnwell and more recently Mordue make it clear that considerable weight must be given to any harm identified to the setting of a listed building to satisfy Section 66(1) of the Town and Country Planning Listed Building Act.

Planning Policy

- The application is contrary to Policies 8, 12 and 13 of the Adopted Minerals Local Plan and County Structure Plan Policies M.3 and M.4

- The southern area of the application site is not allocated within the Adopted Minerals Local Plan.

Upton Rowing Club

- Upton Rowing Club object to the proposed lake landform in favour of a modification to the shape the lake, which would enable a 1,000 metre rowing lake (Competition course), and which would involve the extraction of a further area of mineral deposits to the south of the proposal. This competition course would be one of very few in the country and the only one in the West Midlands
- The proposed restoration lake landform would allow some recreational water sports and it would offer modest value to the Upton Rowing Club as a rowing lake, as it would offer alternative venue for rowing activities, particularly when the River Severn is unsafe in times of flood. However, as currently proposed it is the wrong shape to be of significant value. With some minor modifications to the proposed lake, it could accommodate a short 500 metre straight, multi-lane rowing course, which could be used as a venue for regional competitions and junior events
- They state that an alternative restoration lake landform to enable a 1,000 metre rowing lake has support from West Midlands Rowing Council and Herefordshire and Worcestershire Sports Partnership, and enclose letters of support from British Rowing, British Canoeing, Dyson Perrins CE Academy, Hanley Castle High School, Royal Yachting Association and the landowners of part of the proposed lake and surrounding land
- The restoration of the mineral workings should be leisure and tourism led, as this is a rare site location close to Upton-upon-Severn and the River Severn
- All known reserves within the wider site should be worked. The current proposals would leave a large mineral deposit (about 300,000 tonnes) sterilised or for future possible exploitation, which would result in far more cost and disruption to Upon-Upon-Severn, and would result in another location having to be worked earlier than required. There should be an honest approach to the working scheme and agreed timescales
- Vehicular access should be off the A4104. The current application proposed a leisure use to the south of the lake, but does not propose a means of access to the lake
- The application should be altered to include a direct connection to the River Severn, which would enhance the sports and recreational value of this location.

Letters of representation supporting the proposal:-

- 1 letter of representation and a petition containing 6 signatures objects to the proposals made by local residents that the wharf area should be moved in a southerly direction to opposite the Sewage Treatment Works, as this would be more visually intrusive and generate more noise in this locality. They, therefore, support the proposed location of the wharf
- A small company operating in Gloucestershire, who employs 22 local employees with 8 employees (lorry drivers/ machine operators) working directly for Cemex at Ryall House Farm and associated quarries, comments that if planning permission is not granted, then this would result in the loss of jobs for this company who have built up their business in this area around the Cemex operations

- Minimises the distance travelled for local businesses within the area requiring mineral products
- Economic benefits - The proposal supplies materials to many local traders, as well as larger companies who in turn supply material for the construction of local schools, hospitals and leisure centres
- The proposal would allow for the continued retention of existing jobs.

The Head of Strategic Infrastructure and Economy's Comments

160. As with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The relevant policies and key issues have been set out earlier.

Alternatives

161. Objectors have suggested alternative proposals, recommending that the proposed wharf is relocated to the south of Quay Lane opposite the existing Sewage Treatment Works; that the subsoils and overburden storage area together with the topsoil storage area are relocated west of the application site, immediately north of the overhead power lines; that an alternative restoration lake landform is sought to enable a competition rowing lake; and that vehicular access should be off the A4104 rather than via Ryall Court Lane.

162. Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) outlines the information for inclusion within Environmental Statements. Part 1 (2) states *"an outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects"*.

163. The Government's Planning Practice Guidance at Paragraph Reference ID: 4-041-20140306 elaborates on this matter, stating that *"the applicant does not need to consider alternatives, but where alternative approaches to development have been considered, Paragraph 4 of Part II of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 requires the Environmental Statement to include an outline of the main alternatives studied and the main reasons for the choice made, taking into account the environmental effects"*.

164. In this instance the applicant has not explored the merits of alternative sand and gravel extraction sites, stating that this is because this exercise was carried out by the then *"Hereford and Worcester County Council as part of the preparation of the adopted Minerals Local Plan. The northern and central areas of the application site are identified in the Minerals Local Plan as 'preferred area' for future extraction, with the remainder of the site identified as an area of known deposits, which are capable of being worked. The preferred area has emerged from a comprehensive review of alternative sites as a site which is acceptable in principle for extraction and 'least damaging on environmental grounds' (ref Minerals Local Plan Policy 1)"*.

165. The applicant goes on to state that *"the consideration of alternatives has thus not focussed on alternative sites, but rather on alternative means by which the minerals site might be worked and restored. Brief consideration was given to confining the application site to the defined preferred area only. However, no compelling environmental reason emerged to confine the development in this way,*

which would have had the consequence of substantially reducing the recoverable reserve at a time of substantial shortages of sand and gravel in the county.

166. *Within the extraction area which has been defined, consideration has been given to alternative phasing and directions of working. The view reached is that it would be logical to commence operations in the centre of the site and work north which would allow the extraction operations to benefit from noise barrier attenuation, as the works advance towards Day House Cottages. Similarly, the works progressing north to south through the southern area would benefit from noise barrier attenuation as they advance in a southerly direction. This sequence would also allow the vegetation features in the southern area to be retained for as long as possible and for the development to benefit from the screening they provide".* With regards to the proposed direction of working, (centre to north to south) the Head of Strategic Infrastructure and Economy considers that the proposed direction of working would help to limit views into the site from the built up area of Upton-upon-Severn for the longest duration of time.

167. As outlined earlier, objections have been raised regarding the location of the proposed wharf, suggesting an alternative location opposite the Sewage Treatment Works. Conversely, a letter of representation has also been received supporting the location of the wharf as proposed, as it is considered the alternative wharf location would be more visually intrusive and have greater noise impacts upon residents of Quay Lane. The applicant states that *"the location of the wharf progressed through a number of iterations in terms of location. The final proposed location has been chosen to be in a position, which minimises potential visual and noise effects in terms of properties on the opposite west side of the River (Severn End and Quay Lane), being roughly equidistant between these properties"*.

168. The proposed wharf would have an appearance of a moored barge, and the surge pile would contain a maximum volume of about 25,000 cubic metres of unprocessed sand and gravel, measuring a maximum of 7.5 metres high. The Head of Strategic Infrastructure and Economy notes the letters of representation both for and against the location of the proposed wharf, and considers that there appears to be merits to both options. However, the proposed alternative location of the wharf has not been assessed and has not been subjected to the Environmental Impact Assessment process. Furthermore, it is considered that the alternative wharf location would be highly visible from the Public Right of Way (Footpath HK-574), which runs along the western bank of the River Severn, joining Quay Lane. No Public Rights of Way run along the western bank of the river north of Quay Lane; and whilst the proposed alternative location would locate the wharf further from the residential properties associated with Seven End, it is noted that it would be located in close proximity to residential moorings on the river, located along the western bank of the River Severn. It is also noted that the alternative location of the wharf is located outside of the application site (red line boundary) and consequently located on land not within the applicant's control. The applicant has also confirmed that the alternative wharf location would *"require the relocation of both an overhead powerline and a drainage outfall into the River Severn, enlarging the disturbance footprint of the development"*. The Head of Strategic Infrastructure and Economy considers that the proposed wharf location does not involve such adverse consequences as to outweigh its benefits, and therefore, is not one where the Council as Mineral Planning Authority has an obligation to consider alternative sites as part of its consideration of the application.

169. With regards to an alternative restoration scheme proposed by third parties for a rowing lake, requiring further extraction into the fields south of the application site. The applicant has confirmed "*that having met members of the Upton-upon-Severn Rowing Club, the applicant now has a better appreciation of their aims with regard to both the application site and to land beyond its boundaries. The applicant is sympathetic to the aims of the club and appreciates the presence of a number of synergies between these aims and the applicant's intentions; however, in the short-term, it is apparent that these aims and the applicant's requirements are not aligned from the point of view of timescales. Ideally the rowing club requires 1 kilometre of open water within which to create a rowing course; unfortunately this cannot be physically accommodated within the boundaries of the existing application footprint. The limited geological information available to the applicant indicates that land to the south of the current application boundary towards the A4104 does contain sand and gravel, but there is insufficient information on which to build a business case to work this land at present*".

170. The applicant continues stating that "*in addition, in their view, quarrying in such relatively close proximity to the A4104, the main gateway into Upton-upon-Severn, in itself creates significant short-term visual amenity issues, which would be difficult to weigh against the benefits of a rowing lake restoration whilst it is at such an embryonic stage of development. As an alternative to the full 1 kilometre course, the club have indicated that a shorter course, requiring only 700 metre of open water, could be feasible, which has the advantage of being able to be accommodated within the currently proposed planning application boundary. However, due to the restoration topography proposed by the applicant, this shorter course could only be accommodated if the proposed restoration was substantially revised*". The applicant has confirmed that they are "*extremely reluctant to revise the working and restoration schemes at this stage given that this work would lead to a significant delay in the application's determination*".

171. *However, in the event that the County Council approves the application as proposed, and if all parties involved are agreeable, there still does remain a substantial window of opportunity to revise the site's restoration, as and when more detailed proposals are forthcoming. At the proposed rate of extraction it could be as much as three years from commencement of development before restoration works preclude creating the length of open water required for the shorter course*". Therefore, Members are advised that as with all applications, this application should be determined on its own merits. The Head of Infrastructure and Economy also notes that the RSPB would be disappointed if additional post-restoration land use was given over to active water based recreation as this would severely limit the future value of the wildlife habitat to be created. Should planning permission be granted for this application the applicant could seek further permission within this 'window of opportunity' to revise the landform to allow an alternative size and shaped lake.

172. With regards to third parties suggesting an alternative access off the A4104. The applicant has not applied for planning permission for this access, but proposed access via Ryall Court Lane, with as raised sand and gravel being transported by barge along the River Severn to Ryall House Farm. The adopted Minerals Local Plan states that "*the site has no road frontage and road access to the south is undesirable because of the potentially lengthy and visually exposed haul road to the*

A4104". Furthermore, the County Highways Officer has been consulted and has raised no objections to the proposed application. Based on the advice of the County Highways Officer, it is considered that the proposed access via Ryall Court Lane does not involve such adverse consequences as to outweigh its benefits, and therefore, is not one where the Council as Mineral Planning Authority has an obligation to consider alternative sites as part of its consideration of the application. The proposed access is considered acceptable on highway grounds for use in connection with the proposed 'campaign' method of working.

173. With regard to an alternative location for the topsoil storage, it is considered within the 'Residential Amenity' section of this report, whilst the alternative location for the storage of subsoil and overburden is considered in detail within the 'Historic Environment' section.

Worcestershire's Landbank of Sand and Gravel Reserves

174. National planning policy for minerals is contained within Section 13 'Facilitating the sustainable use of minerals' of the NPPF. Paragraph 142 of the NPPF states "it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation".

175. Paragraph 145 of the NPPF states "*minerals planning authorities should plan for a steady and adequate supply of aggregates by...making provision for the maintenance of landbanks of at least 7 years for sand and gravel*". As required by the NPPF the County Council has produced a Local Aggregate Assessments (LAA), to assess the demand for and supply of aggregates in Worcestershire.

176. The LAA (December 2015) adopts a phased approach to calculating future aggregate demand. For the period up to and including 2016, the County Council will continue to follow the agreement between West Midlands Minerals Planning Authorities and industry regarding the provision to be made by each authority. Beyond 2016 annual provision requirements will be calculated from a rolling average of annual sales levels in Worcestershire in the last 10 years. Worcestershire's required provision of sand and gravel per annum is 0.871 million tonnes. On 31 December 2011, the total permitted sand and gravel reserves for Worcestershire was about 3.85 million tonnes, which is equivalent to a landbank of approximately 4.42 years. No new planning permissions for the release of additional permitted reserves have been granted by the County Council since this date. Assuming the sales figures of 0.620 million tonnes of sand and gravel in 2012 (Herefordshire and Worcestershire sales figures combined) continues at the same rate to the end of December 2015. Then the landbank of permitted reserves at the end of December 2015 would be approximately 1.37 million tonnes of sand and gravel, equating to about 1.57 years. Furthermore, planning permission for Chadwich Lane Quarry Extension (Application Ref: 12/000036/CM), which had permitted reserves of about 1.28 million tonnes has now expired, therefore, taking this into account, the landbank is likely to be less than 1 year.

177. Consequently, the County Council currently does not have sufficient reserves of sand and gravel available with planning permissions to meet its share of the sub-regional apportionment and annual provision requirements based on sales in

accordance with national planning policy and guidance. Should this planning application be granted, it would increase the landbank by approximately 1.6 years.

178. Two further applications for mineral extraction are pending consideration at Strensham (Application Ref: 09/000085/CM) and Clifton (15/000006/CM). However, the Strensham application is stalled due to a Holding Direction issued by the Highways Agency (now Highways England) directing that planning permission is not granted for an indefinite period of time, due to the proposed direct access on to the M5/M50 motorway interchange. The Clifton Quarry planning application is still pending consideration. However, if these were to be permitted they would have a combined supply of 2.63 million tonnes, which equates to just over 3 years supply based on current apportionment levels. The County's landbank would still be less than 7 years.

179. The Government's Planning Practice Guidance (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 Government's Planning Practice Guidance (Paragraph Reference ID: 27-084-20140306) all applications for minerals extraction must be considered on their own merits regardless of length of the landbank.

Best and Most Versatile Agricultural Land and Sieve Test/Methodology

180. Objections have been raised regarding the location of the wharf and subsoils and overburden storage areas, as these would destroy an area of permanent pasture and protected under the European Union's Common Agricultural Policy legislation.

181. Paragraph 112 of the NPPF states that "*local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality*".

182. The NPPF defines best and most versatile agricultural land as Grades 1, 2 and 3a of the Agricultural Land Classification. This is land that is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses, such as biomass, fibres and pharmaceuticals. The agricultural land within the application site has been assessed with the majority of the site being Grade 3a (about 51.9% of the site), which is found mainly in the west of the site, with a small area of Grade 2 (about 6.1% of the site) in the south of the site. The remainder of the site is Grade 3b, which is found mainly in the east of the site.

183. The extraction and removal of mineral and the silt from the site would result in a void, with overburden and soils stripped from above the mineral used to partly backfill the void. Due to the balance of materials and the height of the ground water at the site, it is inevitable that a large water body would be created. Furthermore, due to the location of the site within the Severn floodplain, where the opportunities for agricultural restoration are limited, due to the need to import material which could impact upon flooding downstream, the restoration proposals seek to enhance biodiversity through the creation of a wetland. It is considered that the soil resources

would be used beneficially for the restoration land uses proposed. Notwithstanding this, the majority of the best and most versatile agricultural land within the site would be lost if planning permission were to be granted.

184. The adopted Minerals Local Plan allocates Preferred Areas for the working of sand and gravel in the County. Policy 1 states that planning permission will be granted for Preferred Areas of sand and gravel extraction, subject to an evaluation against other relevant Development Plan policies. This is in order to limit the environmental and blighting effects of proposals for sand and gravel working in the County to a minimum. The northern and central parts of the application site fall within the Preferred Area titled: 'Ryall North', however, the southern part of the site falls outside of the allocated Preferred Area. Therefore, the proposal would not be wholly in accordance with Policy 1.

185. The application site and land beyond is currently being considered as a defined mineral resource area in the Emerging Minerals Local Plan. However, this document is in its infancy and, therefore, is insufficiently progressed for any weight to be attached to it in the determination of this application.

186. Policy 2 and paragraphs 5.3 and 5.4 of the adopted Minerals Local Plan sets out the methodology against which new proposals for sand and gravel extraction, not in an identified preferred area, are to be assessed. If the area is subject to a primary constraint or more than one secondary constraint planning permission will not normally be granted unless there are exceptional circumstances.

187. Using the methodology set out in paragraphs 5.3 and 5.4 of the adopted Minerals Local Plan, it is considered the southern area of the application site would have one primary constraint because a small part of the site comprises Grade 2 and Grade 3a agricultural land, and restoration to a high standard seems unlikely, given that the majority of the best and most versatile agricultural land would be lost due to the proposed restoration to a wetland.

188. However, as Natural England has not raised an objection to the proposal on grounds of impact upon permanent pasture land or loss of best and most versatile agricultural land, and as they states that they "*have no issues with soils and soil management for this planning application*", the Head of Strategic Infrastructure and Economy considers that refusal of planning permission on these grounds could not be justified.

Landscape character and appearance of the local area

189. Letters of representation have been received objecting to the proposal on visual impact grounds, in particular regarding the location of the wharf and the location of the topsoil bunds and subsoils and overburden storage area.

190. The submitted Environmental Statement considered the impacts upon landscape character and visual effects. The Environmental Statement concluded that a moderate level of landscape impact is to be anticipated for the application site and immediate area, with the surrounding landscape being minimally affected by the proposal. The visibility of the proposal is generally limited to within 500 metres of the site; with the exception of locations to the north where the visual envelope extends for up to 1 kilometre into adjoining agricultural land. Approximately 1,750 linear metres of hedgerows and about 20 to 30 mature and semi-mature trees would be

lost due to the proposal, which are considered to be key characteristics of the area. However, the restoration scheme includes the planting of about 3.2 hectares of wet/dry woodland planting and 2,200 linear metres of hedgerow. The extraction area would take place within the existing field boundaries for the most part and the resultant void would be restored to a lake, within a reinforced field pattern based around the retained hedgerows and trees. The proposal to restore the site to a lake would introduce a new landscape character to the area, but it is considered that this would not be inappropriate in this location, given the site is located within the floodplain of the River Severn.

191. The Environmental Statement identified four scheduled landscape receptors within the study area, namely the historic park and gardens of Croome Landscape Park, 'The Park' and the Scheduled Ancient Monuments of Hanley Castle and the Moated site at Earl's Croome. Due to the distance of the proposal from Croome Landscape Park and these Scheduled Ancient Monuments it is considered the development would not have any direct or indirect effects upon them or their setting. 'The Park' is located about 200 metres north-west of the application site, on the western bank of the River Severn. However, due to its enclosed aspect and its limited views out to the river, principally to the north, the proposal is considered not to have any significant effect on its landscape or setting. The County Landscape Officer has been consulted regarding impacts upon 'The Park' and comments that she is satisfied that the impact on the setting of 'The Park' would be acceptable, as mineral extraction would be carried out on a campaign basis. However, an undertaking from the applicant to allow bankside vegetation and hedges to grow up and thus provide maximum screening should be sought. The applicant has confirmed that they *"are happy to agree to this request to the extent that it has control over the river bank"*. A condition is recommended to this effect.

192. The Head of Strategic Infrastructure and Economy considers that the visual impacts of the proposal are generally restricted by the flat landscape and intervening vegetation and changes in topography. However, viewpoints in elevated locations or within short distances of the site are possible and are susceptible to potential adverse visual impacts, with Day House Cottages and the Public Right of Way of the Severn Way being particularly sensitive. Views down into the site are generally contained to the first floor of a number of properties within Holly Green; elevated locations on the ridge at the eastern side of the site; and raised ground such as Quay Lane, the A4104 and B4211 to the south of the site, as well as the agricultural flood defence embankment to the west.

193. Views of the site from the south from Upton Bridge would be possible due to the elevated nature of this viewpoint, however, these would be partly mitigated by the flatness and wide expanse of the landscape, distant and glimpsed between existing established vegetation, until the later stages of the proposal, by which time the earlier phases of the development would have been restored.

194. Views from the Public Right of Way (Footpath RP-503) adjacent to Levent Lodge, situated about 700 metres east of the application site, offers long distance views across the floodplain, with the Malvern Hills in the background. The view from this elevated position would allow distant views down onto the proposed extraction area.

195. Views along the Severn Way of the extraction area would be partly screened by the existing vegetation, but clear views into the northern most area and southern

most area would occur. It is considered that the phased restoration would limit the intrusiveness of the extraction from persons along the Severn Way, resulting in only limited views of disturbed ground. The wharf and associated structures and surge pile would be visible over a longer period of time, and whilst they would quickly diminish with distance, they would last for the life of the extraction period. These views may not be necessarily be regarded as negative, as they would also provide a focus of interest along the route. Users of the Public Rights of Way in the vicinity of the application site would be able to see into the working area; however, their views would partly screened by established hedgerows and views would be transitory as they travel the footpaths. Footpath RP-501 would be stopped up on a temporary basis and then permanently diverted back to a similar route to its current footpath on the completion of working. It is noted that the County Footpath Officer, Ramblers Association, Open Space Society and British Horse Society all raise no objections to the proposal.

196. Views from Quay Lane, located about 190 metres south-west of the application site (wharf area) and about 390 metres west of the main body of the application site, would principally be of the river itself, with riverside vegetation restricting the extent of views. There would be the potential for limited views of the wharf and surge pile area, with limited views across the extraction area.

197. The proposal would have a significant adverse visual impact upon Day House Cottages during the initial soil stripping operations; construction of the topsoil bunds; and during the phase 2 extraction period, albeit the impact would be lessened during this phase by the presence of the topsoil visual screening and acoustic attenuation bunds. The bunds would be temporary features in place for about 3 years. Subsequently, the visual impacts upon Day House Cottages would be less and declining as the progressive restoration matures. In the long-term the restored site, with views of the lake is considered to enhance views from Day House Cottages.

198. It is considered that the movement of barges along the river would increase the commercial use of the river in this location, although it is noted that extraction and number of barges would be at a similar rate and number to that at Ripple Quarry when it was operating. It is considered that the impact of barges on this stretch of the River Severn would have a neutral impact.

199. The application site is within 200 metres of ancient semi-natural woodland; however, the Forestry Commission has raised no objections to the proposal, stating that the scale of the proposal is such that there would be no effect on the woodlands.

200. To lessen the landscape character and visual impacts of the proposal, a number of mitigation measures, design measures and enhancement measures are proposed as part of the development. This includes phased programme of working and restoration; extracting sand and gravel on a campaign basis; the construction of a 'dolphin style wharf, which would largely have the appearance of a moored barge; the direction of working; processing sand and gravel off site; construction of topsoil screening bunds; and the planting of a hedgerow along the southern boundary of the application site to help screen the proposal from views to the south from Upton Bridge during the final phases of the development. In addition, there would be the restoration of the site, which includes the creation of a lake; hedgerow and tree planting; and creation of new wetland habitats.

201. Malvern Hills District Council has raised no objections, subject to the imposition of appropriate conditions, including conditions regarding landscape mitigation and enhancement. The County Landscape Officer has been consulted and comments that she requires clarification from the applicant regarding the red line application boundary; an amended Restoration Plan to show the location of all existing trees and hedges to be retained within and in the vicinity of the application site, noting that scrub woodland is not acceptable; requires a detailed planting plan; requires an undertaking from the applicant to allow full growth of bankside vegetation in the vicinity of the wharf to protect the setting of The Park; details of pollard management; and recommends the imposition of a condition requiring the protection of retained trees.

202. In response to the County Landscape Officer's comments, the applicant has clarified the redline boundary; amended the restoration scheme; submitted a drawing which illustrates which trees and hedgerows to be retained, removed and planted; confirmed the pollard management; and has proposed to submit an Arboricultural Method Statement prior to undertaking any works to trees. With regards to scrub woodland, the applicant comments that "*limited areas of scrub are proposed, which would provide an additional riparian habitat for local wildlife specifically in association with the proposed swales and to provide some screening for the bird watching area. Whilst this type of planting may not strictly be in keeping with the wider landscape character, it is felt that the limited amount proposed is justified on the grounds of biodiversity gain*". The Head of Strategic Infrastructure and Economy considers that selective woodland scrub planting would provide some screening to the bird watching area, and on balance; it is considered that the minor adverse landscape character impacts from the limited amount of scrub woodland planting would be outweighed by the biodiversity benefits. It is considered that should planning permission be granted a condition should be imposed requiring a detailed restoration and planting scheme.

203. In respect of the objections regarding the visual impacts of the proposed topsoil bunds to be located adjacent to Day House Cottages, the use of bunds is a means of both screening mineral working and to provide a barrier to help contain the noise and dust arising from the associated operations. Their use is an accepted means of helping to mitigate some of the effects of mineral working on the area in which they are located and their use. The Head of Strategic Infrastructure and Economy accepts that bunds would introduce an unusual feature in this area, but considers that they would be a temporary feature (about 3 years) and would not be visually intrusive once seeded with an appropriate grass seed mix. Conditions controlling this could be imposed should planning permission be granted.

204. Following objections suggesting that the subsoils and overburden storage area would be visually prominent, the Mineral Planning Authority sought the views of the County Landscape Officer. The County Landscape Officer commented that from a landscape perspective the proposed storage area was fairly visually contained and they did not anticipate that the adverse visual impact would merit any greater mitigation than allowing hedges to grow up. A condition is recommended to this effect.

205. Overall, it is considered that there would be changes to the perceptual and aesthetic aspects of the site, but these impacts would be localised in effect and the

mitigation measures, in particular the construction of topsoil screening bunds; the nature of the working and phased restoration would limit the extent of the disturbance visible at any one time. The Head of Strategic Infrastructure and Economy considers that, based on the advice of the County Landscape Officer, the proposed development would not have an unacceptable impact upon the character and appearance of the local area, including the Registered Park and Garden of 'The Park', subject to the imposition of appropriate conditions, in accordance with Policies SWDP 6 and SWDP 24 of the adopted South Worcestershire Development Plan.

Residential Amenity (including noise, dust and light impacts)

206. The nearest residential property to the application site is that of Day House Cottages, located immediately to the north-east of the application site. Access to the application site is via Ryall's Court Farm, which is situated about 200 metres from the main body (extraction area) of the application site. Further dwelling located adjacent to the main vehicular access. Severn End, Vine Yard Barn and holiday lets, and Severn End Cottage are located on the western bank of the River Severn situated about 250 metres north-west of the proposal (wharf area). Ballards Farm, the Cottage, Bonners Cottage and River View are located along Quay Lane approximately 190 metres south-west of the application site (wharf area) and about 390 metres west of the main body of the application site, on the western bank of the River Severn.

207. Objections have been raised by local residents regarding the noise, dust and light impacts of the proposal. Concerns are also raised by Earls Croome Parish Council and Hanley Castle Parish Council recommends a number of mitigation measures relating to noise, lighting and working hours. The submitted Environmental Statement considered Noise and Air Quality.

208. The operating hours and transportation of aggregates would be between the hours of 07:30 to 18:30 hours Mondays to Fridays, inclusive and between 07:30 and 12:00 on Saturdays. The proposed development includes a number of mitigation measures, these include: the construction of a topsoil screening bund measuring about 3 metres high between the extraction area and Day House Cottages; the construction of the wharf, internal haul roads and soil stripping are confined where feasible to periods of no more than eight weeks in any year; haul roads to be kept clean and in good state of repair; plant subject to regular maintenance; minimising drop heights; and pumps to be fitted with acoustic screens.

209. The PPG is the most up to date Government Guidance relating to noise on mineral sites. It recommends that background noise levels (LA90, 1h) should not be more than 10dB(A) at noise sensitive properties during normal working hours (07:00 to 19:00), but where it would be difficult not to exceed background noise levels by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the noise level should be as near that level as practicable. It sets a maximum noise levels for normal daytime operations (55dB)(A) Laeq, 1hr) and a higher limit (70dB(A) LAeq, 1hr) for noisier but temporary operations such as restoration work and the construction of soil storage bunds, but only for up to 8 weeks a year (Paragraph Reference ID: 27-022-20140306).

210. The Environmental Statement Noise Section concludes that with the implementation of the recommended mitigation measures, and inclusion of the

acoustic benefits provided by the quarry face when working at the base of the sand and gravel that:

- Noise levels generated by infrastructure development, soil stripping and extraction operations would be within maximum noise limits (55dB LAeq, 1hr) considered acceptable for normal operations, as outlined in the PPG
- Noise levels associated with temporary operations would be below that considered acceptable for temporary operations as described in the PPG (70dB LAeq, 1h for up to eight weeks per year).

211. In respect of the concerns raised by the residents of Day House Cottages that the proposed topsoil screening bunds appear to be inappropriate and unnecessary; and the suggestion an alternative location for the topsoil storage. The Head of Strategic Infrastructure and Economy considers that these bunds are required as part of the noise mitigation measures. These topsoil bunds are temporary structures, constructed as part of Phase 1 and would be removed as part of Phase 2 restoration, being in place for about 3 years. Furthermore, the applicant has confirmed that they expect their construction and removal to last no longer than a week in each instance. It is also noted Earls Croome Parish Council consider that it is of paramount importance that the proposed topsoil screening bunds are constructed; and that Worcestershire Regulatory Services (Environmental Health Officer) has no objection, subject to these bunds being constructed. With respect to the suggested alternative topsoil location, it is also noted that this is on land outside of the applicant's control; and would be located well within the Floodplain (Flood Zone 3) rather than an edge of Floodplain location, performing a useful function as visual screening and noise attenuation bunds.

212. In respect of concerns regarding the volume of topsoil to be stored, the applicant has re-calculated the volumes and has confirmed that the topsoil bunds would contain approximately 3,520 and 3,386 cubic metres, and would measure about 3 metres high, with a gradient of 1:3. It is also noted that with regards to soil management and soil storage, Natural England considers that the restoration plan is considered acceptable and is supported by all the significant partners and the applicant refers to the Ministry of Agriculture, Fisheries and Food (MAFF) guidance on handling soils and, therefore, raise no issues with soils and soil management for this planning application.

213. With regard to Earls Croome and Ripple Parish Councils' concerns regarding the noise associated with movement of barges along the River. The proposal is estimated to generate no more than 24 barge movements per day (12 unladen movements upstream and 12 laden movements downstream). All barges would be diesel powered and barge movements would be restricted to the hours of 07:30 to 18:30 Mondays to Fridays, include and 07:30 to 12:00 Saturdays. Due to the proposed hours and limited number of barge movements, the Head of Strategic Infrastructure and Economy considers that the additional barge movements would be similar in terms of noise from other powered craft using the river, and therefore, would not have a significant impact upon the residents of Upton-upon-Severn in respect of noise emissions.

214. In response to objections regarding the noise impacts due to the proposed wharf and concerns regarding the findings of the noise background level at Severn End, the applicant undertook a further Noise Assessment. Whilst the background

noise levels at this location were lower than previously measured, the Noise Assessment conclusions remained unchanged. Concerns have been raised that the Noise Assessment does not take into account reversing alarms of vehicles. The applicant has confirmed that *"all Company mobile plant is fitted with 'white noise' style audible reversing alarms. These alarms are also 'smart' in that they automatically pitch their volume at a level that reflects the background noise level within which the mobile plant is operating. These measures, in concert, and in the Company's experience ensure that noise disturbance due to mobile plant reversing alarms is minimised. All mobile plant will spend as little time as possible travelling in reverse as this is inefficient and potentially hazardous"*. It is also noted that Worcestershire Regulatory Services has raised no objections on noise grounds.

215. With regard to Air Quality, which for this application primarily relates to dust emissions associated with mineral extraction, storage and handling and traffic exhaust emissions. There would be no processing of minerals at the site. The stripping of soil and overburden and the extraction of minerals would be completed on a campaign basis, operating for a period of up to 7 weeks at a time. A number of mitigation measures are proposed, which include minimising drop heights; dampening down of haul roads/stockpiles; vehicle speed restrictions; and regular maintenance of haul roads. Subject to the implementation of the recommended mitigation measures, the Environmental Statement concludes that the impacts of dust emissions on sensitive receptors are considered to be insignificant. Worcestershire Regulatory Services has raised no objections in respect to air quality or contaminated land.

216. With regards to light impacts, the applicant has confirmed that external lighting is proposed around the wharf area. The proposed lighting would be mounted on poles and be directional to minimise light spillage. The applicant does not propose to excavate sand and gravel after dusk, therefore, no lighting is proposed around the excavation area. The applicant proposing to adhere to the guidance by the Institution of Lighting Engineers *"Guidance Notes for the Reduction of Obtrusive Light"*. Worcestershire Regulatory Services has made no adverse comments in respect to light pollution. The Head of Strategic Infrastructure and Economy considers that should planning permission be granted a condition should be imposed requiring details of the lighting scheme.

217. It is noted that the Environment Agency has raised no objections, subject to the imposition of appropriate conditions. With regards to impacts to human health, Public Health England has no objections, subject to the imposition of conditions to mitigate the impacts of dust emissions.

218. In view of the above matters, the Head of Strategic Infrastructure and Economy considers that, subject to the imposition of appropriate conditions relating to operating hours, requiring a detailed lighting scheme and implementation of the mitigation measures outlined in the submitted Environmental Statement (Air Quality and Noise Sections) that there would be no adverse air pollution, noise, dust or lights impacts on residential amenity or that of human health.

219. Concerns have been raised by local residents that their house prices would be adversely affected by the proposal. The Head of Strategic Infrastructure and Economy notes these concerns, but advises Members that property values are not a relevant material consideration in the determination of planning applications.

The Water Environment

220. The submitted Environmental Statement addressed Hydrology and Hydrogeology and was accompanied by a Flood Risk Assessment; Hydrogeological Report and Water Framework Directive Compliance Assessment.

221. The application site is generally flat lying at between 10.2 metres and 11.8 metres Above Ordnance Datum (AOD) and raises steeply to the east of the application to up to 38 metres AOD. The application site lies in close proximity to the River Severn, forming the western boundary of the application site. A number of minor drains and ditches cross the application site, which discharge to the River Severn via flap valves. The majority of the proposed development is located within the floodplain of the River Severn (Flood Zone 3 - high probability), as identified on the Environment Agency's Indicative Flood Risk Map, apart from the field to the east of the main extraction area (known locally as 'Old Lands'), which is located within Flood Zone 1. Agricultural flood defences are located along the eastern bank of the River Severn, adjacent to the application site, which offers protection up to a 1 in 5 year flood event.

222. The proposed development is classed as 'water-compatible development', as identified by Table 2: 'Flood risk vulnerability classification' of the Government's PPG. Table 3: 'Flood risk vulnerability and flood zone 'compatibility'' of the PPG identified that water-compatible development uses of land are considered appropriate in Flood Zone 3a and are considered acceptable in Flood Zone 3b (functional floodplain), subject to it being designed to remain operational and safe for users in times of flood, result in no net loss of floodplain storage, and not impede water flows and not increase flood risk elsewhere.

223. The NPPF states that "*when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, following the Sequential Test*".

224. With regards to the Sequential Test, the aim of which is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The application was accompanied by a Flood Risk Assessment, which notes that part of the site is allocated within the adopted Minerals Local Plan and that "*the proposal relies on the existence of suitable deposits at this location, so it would not be possible to locate the quarry somewhere with a lower flood risk, in which the deposits were not present. There are no known deposits of sand and gravel locally with a significantly lower flood risk. The Exception Test is not applicable to 'water compatible' land uses*", such as this.

225. The Flood Risk Assessment concludes that the proposal would result in no detrimental impact being experienced by third parties due to increased flood risk. At worst during Phases 5 and 6 of the development a rise in water levels 100 metres downstream of the surge pile of 6mm is predicted (during a 1:1000 year event). However, this change would occur well upstream of settled areas around Upton-upon-Severn. During the later phases of the development, and once restored, a

modest but permanent reduction in flood risk would be experienced (about 17mm reduction upstream in water levels during a 1:1000 year event).

226. The Flood Risk Assessment recommends that the quarry operator registers with the Environment Agency's Floodline Warnings Direct service; that an Evacuation Plan should be prepared, to include plant and machinery, as well as people; that the ditches and associated structures on land controlled by the applicant should be subject to an ongoing maintenance programme; that the Bounding ditch, located along the eastern edge of the application site is separated from the drainage across the floodplain; and that the applicant should monitor the water level in the River Severn and bounding ditches when people are working on the site. This would give prior warning to a flood event and enable enough time for the site operatives to evacuate the site.

227. Objections have been raised regarding the location of topsoil bunds within the floodplain. The Flood Risk Assessment has considered the impact of these bunds on flood risk and considers that they would not present a flood risk, as they would be aligned in the direction of any flood flow and would be located on the margins of the floodplain and in any event they would provide a visual and acoustic screening to Day House Cottages, which is considered best practice.

228. With regard to the impacts of the final restoration scheme upon surface water run-off, the Environmental Statement concludes that the proposal would not increase local surface water run-off rates and indeed would reduce run-off rates and provide additional floodplain storage.

229. The applicant proposes to work the quarry dry during periods of mineral extraction; therefore, dewatering would be undertaken and eventually discharged into the River Severn. Dewatering would be intermittent, with dewatering pumps switched off during non-operational periods. There is potential for the dewatering activities to affect the flow of the River Severn. The applicant states that the thick clay between the application site and the River Severn prevents groundwater from discharging to the River Severn to the west of the site. The groundwater discharges to the River Severn near to Upton-upon-Severn where the sand and gravels outcrop at surface. Dewatering would reduce this flow, but as groundwater abstracted during the dewatering activities would be discharged, following settlement, into the River Severn, the net impact of dewatering on flows within the River Severn would not be significant.

230. With regard to impacts of dewatering upon surface water features, the applicant states that the floodplain is underlain by clay deposits. The drainage ditches within the floodplain, therefore, drain surface water from the floodplain itself and do not rely on groundwater flow from the sands and gravels under the clay deposits. Some small ditches within the extraction area would be lost, however, ditches and ponds external to the extraction area are perched on clay deposits and would not be significantly affected by dewatering of the site.

231. With regard to water abstraction, the applicant states that the Environment Agency has confirmed that there are ten licenced surface water abstractions within 3 kilometres of the application site; this includes a private water supply from Ryall Court Farm and six surface water abstraction licenses located along this stretch of the River Severn. The submitted Environmental Statement concludes that no local

groundwater abstractions are identified within the anticipated dewatering radius of influence, including the closest abstraction at Ryall Court Farm due to its location on the Branscombe / Sidmouth Mudstone bedrock. Notwithstanding this, objections have been received from local residents stating that the application does not take account other known boreholes/abstraction points, in particular the well/borehole located at Day House Cottages. In response to these comments the applicant submitted an assessment of the well at Day House Cottages. The assessment concludes that *"it is unlikely that the proposed quarry development would have an impact on the private water supply well at Day House Cottage. The response zone of the well is within less permeable clay material. The base of the well is above the sand and gravel layer, the well might have collapsed over time thus reducing its depth and the yield. Furthermore, the well is currently not in use and has not been used for some time due to its low yield"*. The Head of Strategic Infrastructure and Economy notes that the Environment Agency agrees with the above Assessment's conclusion.

232. With regard to impact on water quality, the submitted Water Framework Directive Compliance Assessment considers that the proposal has the potential to impact upon the quality of surface water, particular through spillages of fuels or other contaminating liquids and surface water becoming contaminated with suspended solids during the mineral extraction operations, construction of the bunds and associated works. To mitigate this risk it recommends a number of measures including the adoption of relevant best practice; regularly maintain and inspecting plant daily for leaks of fuel and oil; implementation of traffic management systems to reduce the potential for conflicts between vehicles; site vehicle speed limits; refuelling vehicles within a dedicated bunded compound area; and a surface water quality management plan would be prepared to ensure off-site discharges of surface water are an acceptable quality prior to discharge to the receiving watercourse. The Assessment concludes that the impacts of the proposal on water quality are considered to be low to near zero.

233. The Environment Agency has been consulted on this proposal and has raised no objections, subject to the imposition of conditions regarding Flood Management Plan; phasing; and an amended restoration plan, which includes enhancements to the River Severn to increase the ecological value of the river. The Environment Agency confirm that they are satisfied that the fluvial flood risk to and from the proposal has been robustly assessed; and demonstrated that there is no adverse impact to third parties with regards to flood risk from the River Severn.

234. Objections have been raised by local residents that the subsoil and overburden storage area would exacerbate surface water flooding by creating a damn across the small valley feature. In response to these objections, the applicant revised the subsoil and overburden storage area layout to include a drainage outlet to ensure that the proposed bunds would not impede the flow of surface water. Both the Lead Local Flood Authority and South Worcestershire Land Drainage Partnership have raised no objections to the proposal.

235. A number of objections have been raised from local residents and users of the River Severn regarding conflict with existing water users including vessels, the marina, slipways, and leisure uses such as fishing and canoeing. The proposed wharf is located approximately 2 kilometres from Upton Marina. The River Severn is frequently used by barges and forms a valuable tourist route in the Malvern Hills

District and further afield. Any impact upon the River Severn would not solely be related to tourists travelling through Upton-upon-Severn, but also existing businesses relying on the river, as well as being used for recreation. It is also noted that Upton-upon-Severn holds a number of festivals, notably Upton Jazz Festival, and the fields which lie in close proximity to the boundaries of the application site, known locally as 'Fish Meadow', are used as part of the Upton-upon-Severn festivals.

236. The applicant has confirmed that the proposal is estimated to generate no more than about 24 barge movements per day (about 12 unladen barge movements upstream and about 12 laden barge movements downstream per day). The applicant states that the barge movements on any one day would vary, but not exceed 24 movements. This variance is due to a variety of factors and includes sales, flooding of the extraction area, breakdowns and high or low water levels. The Head of Strategic Infrastructure and Economy notes that the applicant is proposing to extract approximately 180,000 tonnes of sand and gravel per annum. If it was assumed the quarry would be operational for about 275 working days per year, and the average load was 180 tonnes per barge, this would equate to approximately 8 barge movements per day (about 4 unladen barge movements upstream and about 4 laden movements downstream per day).

237. The applicant has submitted a Freight Risk Assessment which considered the navigational risk of barges travelling along the River Severn between the application site and that of Ryall House Farm. This assessment includes the implementation of best practice and mitigation measures, which includes installing warning signs at marina exit; pruning back trees annually around the marina entrance to improve visibility; sounding barge horns and reducing speed if vessels seen emerging from the marina; fitting bow thrusters to all barges to assist turning; keeping lookouts on barges; and slowing down when approaching slipways and leisure crafts to reduce wash.

238. Based on the submitted Risk Assessment, the Canal and Rivers Trust has raised no objections to this proposal. The Inland Waterways Association has also raised no objections, stating that they promote the use of all waterways for commercial traffic, and confirm that the existing use of the River Severn by barges transporting sand and gravel has not caused any problems. The Commercial Boat Operators Association also strongly supports the proposal.

239. With regards concerns that the river at the proposed wharf position is not suitable for loaded barges when the river is running at low water levels. The applicant has confirmed that they *"have been advised by the current and proposed barge operator, that given the information currently available to them it is not likely that dredging of the river bed will be required to facilitate the loading of barges at the proposed wharf"*.

240. In view of the above matters, the Head of Strategic Infrastructure and Economy considers the impacts upon the water environment including hydrology, hydrogeology and users of the River Severn would be acceptable subject to the imposition of appropriate conditions.

Ecology and biodiversity

241. Paragraph 9 of the NPPF states that *"pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life", which includes "moving from a net loss of biodiversity to achieving net gains for nature". This is reiterated within Section 11 of the NPPF, paragraph 109 states that "the planning system should contribute to and enhance the natural and local environment", and this includes "minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".*

242. Paragraph 118 of the NPPF states that *"when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles", this includes "if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".*

243. There are a number of statutory wildlife designated sites within 1 kilometre of the proposal. This includes the Upton Ham SSSI, which is located about 715 metres south of the application site; and Earl's Croome Meadow SSSI located about 610 metres to the east of the proposal. There are also a number of non-statutory wildlife designated sites within 1 kilometre of the proposal, notably the River Severn LWS located immediately to the west of the application site.

244. The submitted Environmental Statement assessed the impact upon ecology and biodiversity. In respect to impacts upon statutory and non-statutory wildlife designated sites, it considered that the proposal was situated beyond the hydrological, dust, noise and lighting zones of influence of the Upton Hamm SSSI, Earls Croome Meadow SSSI and Brotheridge Green Meadows SSSI Pool and Mere Brooks LWS, Holly Green Meadows WGI and Severn Bank Meadow WGI and, therefore, no significant direct or indirect adverse impacts were anticipated. It considered that the proposed restoration scheme may have a positive indirect impact upon the SSSI's and Severn Bank Meadows WGI. With regards to impacts upon the River Severn LWS, whilst the proposal would require a temporary wharf to be constructed within the River Severn, encompassing approximately 189 metres stretch of the river, due to the measures to limit impacts upon otters, outlined below, it concluded there would be no significant direct or indirect impacts upon the River Severn LWS.

245. The proposal would result in the permanent loss of four 'veteran' trees, as well as the existing habitats within the site comprising about 38 hectares of habitat and approximately 1,921 metres of linear habitat, including standing waters (about 0.05 hectares) and arable field margins (about 0.37 hectares). In order to mitigate for the loss of these habitats, the restoration scheme encompasses a suite of habitats, namely: Lowland Meadows (about 16.2 hectares); Reedbeds (about 1.1 hectares); a lake (about 16.95 hectares); ponds (about 0.09 hectares); and hedgerows (about 1,750 metres). The restoration scheme, therefore, provides for a net increase in biodiversity. In addition, in order to mitigate for the loss of veteran trees, the applicant proposes to carry out an invertebrates survey prior to felling. In addition, each of the felled trees would be re-erected as 'monoliths' in the restored areas of the quarry. The

proposed development would also retain two veteran oak trees, as well as approximately 0.3 hectares (about 50%) of broadleaved scattered trees within the site.

246. Ten badger setts are located within the surrounding area, with a single outlier sett situated within the extraction boundary. Prior to soil stripping and earth movements within each phase, the applicant proposes to carry out a walk over badger survey to ensure no occupied badger setts are within the development footprint. The survey results would inform the mitigation measures proposed, but if an occupied badger sett is recorded within the development footprint, a licence from Natural England may be required in order to close the sett and allow works to proceed.

247. No otters were identified within the application site or on land immediately adjacent to the site or along the river. However, the applicant acknowledges that it is likely that otters do commute along this section of the river. No potential holt sites were identified on the eastern bank of the river (within the application site), therefore, it is likely that the presence of otters is transient and limited to otters hunting or commuting along the river, as there is nothing to draw otters into the extraction area (i.e. a water-body stocked with fish). The Environmental Statement considers that otters appear to be relatively tolerant of disturbance and, as the River Severn is already subject to significant disturbance by motor-powered pleasure craft, it is unlikely that operations associated with the wharf would cause a high significant negative impact upon their conservation status. In order to mitigate for potential negative impacts upon otters, the location of the wharf has been proposed at the northern most extremity of unsuitable habitat for holting or couching sites. Furthermore, the operational hours of barge movements would be restricted, thereby, reducing the potential for disturbance to a minimum.

248. Great Crested Newts were discovered in a small pond in the south-east corner of the application site, which forms part of Phase 5; and within a pond located 425 metres east of the extraction area, within Ryall Court Farm. The applicant has submitted a Great Crested Newt Mitigation Strategy, which proposes prior to the commencement of Phase 1 of the development to ensure an adequate lead in time prior to the translocation of Great Crested Newts and destruction of the pond (in Phase 5) an application to Natural England would be made for an European Protected Species Licence. Four surrounding ponds (two within the application site) would be enhanced to ensure adequate alternative receptor ponds for Great Crested Newts, and additional ponds would be created to provide stepping stones between the retained ponds. Great Crested Newts would be translocated to the pond located to the east of the application site, at Ryall Court Farm.

249. The applicant has conducted a bat survey which identified the presence of a single bat roost within a mature hedgerow oak tree. This tree is proposed to be removed during Phase 4 of the development; therefore, if this roost is still present when the development reaches Phase 4, it would be necessary to obtain a licence from Natural England. A number of trees within all phases of the development would be subject to repeat inspections for bats prior to felling. Should any of these trees be found to contain bats a licence from Natural England would be sought. The applicant proposes the installation of bat roost boxes to compensate for the loss of bat roosting opportunities within the site. In addition to this roost, a number of bats are understood to be using the site for foraging/commuting.

250. With regard to impact upon bats, it is noted that the County Ecologist comments that the submitted assessment identifies no licencing implications with regards to disturbance effects on bat species. Minor impacts to individual bats, however, predicted impacts would be more than offset by habitat enhancements proposed, and any commuting route severance (e.g. in the form of hedgerow removal) is considered acceptable and has comprehensively evaluated.

251. The County Ecologist considers that there is sufficient information gained through multiple roost inspections to support the conclusion that the roost within the application site is likely to be a sporadically occupied transit roost of low conservation significance, and considers that confirmation of the specification, number and location of the replacement roosting features should be sufficient for the purposes of imposing and monitoring a planning condition which secures this compensation.

252. It is also noted that Natural England comments "*that following their review of the Bat Assessment that they are happy that in this specific case the survey work undertaken is satisfactory in providing the information necessary to represent the bat assemblage at the Ryall North Site and, therefore, they are happy that the methodologies are appropriate for this scheme*".

253. Given the presence of European Protected Species on site, in order to discharge its Regulation 9(5) duty of The Conservation of Habitats and Species Regulations 2010, the Mineral Planning Authority must consider in relation to a planning application: whether any criminal offence is likely to be committed; and if so the Council must be satisfied that the three Habitats Directive "derogation tests" are met. Only if the Mineral Planning Authority is satisfied that all three tests are met may planning permission be granted.

254. The court judgment (R (Woolley) v Cheshire East Borough Council, 2009) has determined that local planning authorities, as part of their general duty under the Habitats Regulations must (prior to determination of a planning application) consider all three "derogation tests" where impact to European Protected Species interests is anticipated. Namely does:

1. *the proposal preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*
2. *that there is no satisfactory alternative, and*
3. *that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*

255. With regard to the first test, it is considered that the proposal would provide a small number of direct employment opportunities, secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the market, resulting in considerable

economic development benefits for Worcestershire, demonstrates that Test 1 (overriding public interest) would be met.

256. With regard to the second test in relation to Great Crested Newts, the County Ecologist states that they *"cannot envisage an alternative which would avoid impact to the pond currently utilised by Great Crested Newts within the proposal"*.

257. With regard to the third test in relation to Great Crested Newts, it is the County Ecologist's view that when *"considered together, the management operations and reasonable avoidance measures for the exclusion and translocation of Great Crested Newts (operations requiring Natural England derogation licence) are likely to maintain the Favourable Conservation Status of the local Great Crested Newt meta-population"*.

258. The County Ecologist concludes that in their opinion *"if the mitigation strategy proposed is secured by an appropriately worded condition they consider that the development could satisfy Regulation 53(9)(a) and (b) of the Habitats Regulations"*.

259. The RSPB have been consulted and have raised no objections, but consider that there is scope to improve the restoration scheme, and a long-term management plan should be prepared that goes beyond the initial 5 year aftercare period. The applicant considers that *"there is insufficient in situ restoration material, and the proposed restoration scheme provides a balance between what is achievable given the availability of restoration material, the desire to produce a final landform which optimises biodiversity opportunities and delivering a landform back to the landowners which is capable of a long-term beneficial afteruse"*. The Head of Strategic Infrastructure and Economy notes the limited amount of restoration materials, but considers that the detailed comments of the RSPB regarding the restoration scheme have some merits, and considers that this could be explored in more detail by the applicant in the final detailed restoration scheme. A condition is attached to this effect. With regards to the long-term management of the site, a condition is attached requiring a 10 year aftercare scheme for the nature conservation area (northern part of the site).

260. Whilst the Environment Agency raise no objections, it is noted they are disappointed the proposal has not been revised to incorporate further measures to enhance biodiversity, namely a diverse mosaic wetland that incorporates extensive shallows and reedbeds; noting that sand and gravel extraction represents one of the best methods of Britain achieving its targets for creating priority wetland habitats and contributing towards the aims of the Water Framework Directive. In response to the Environment Agency the applicant confirmed that *"there is insufficient in situ restoration material to allow a wetland mosaic to be formed. The proposed restoration is a balance between what is achievable given the availability of restoration material, the desire to produce a final landform which optimises biodiversity opportunities and delivering a landform back to the landowners which is capable of long-term beneficial afteruse. The entire northern shore of the proposed lake would be given over to shallow reedbed with an embayed shoreline to maximise the extent of shallow reedbed area"*.

261. Natural England and Worcestershire Wildlife Trust have been consulted due to the proximity of the proposal to SSSI's and LWS's, respectively. Natural England is satisfied that the proposal being carried out in accordance with the application

submission would not damage or destroy the interest features for which the sites have been notified. Worcestershire Wildlife Trust also has no objections, subject to the imposition of appropriate conditions. The County Ecologist also has no objections, subject to the imposition of appropriate conditions.

262. Objectors consider that the application submission is ambiguous regarding the presence of otters, and submitted comments from an Ecologist in support of their letter of representation. The Head of Strategic Infrastructure and Economy notes that the submitted Environmental Statement contains a detailed survey of otters, and that the applicant has reviewed the comments made by third parties and shares the view expressed that otters do use the River Severn, but considers that the findings of the 2014 survey remain sound, noting that no further survey evidence has been submitted by third party objectors. In respect of this matter, the County Ecologist has confirmed that they agree that further surveys could potentially identify additional signs of otter transit throughout the site. They also agree with the findings of the submitted Otter Survey which identifies that the habitats within and adjacent to the site do not have the potential to hold an otter holt or couch and are unsuitable for foraging otters. However, on restoration of the site, there should be considerable additional aquatic foraging and commuting resources for otters. While this does not provide additional rationale for further surveys at this stage, in their mind it does highlight the value which could be realised for otters if an artificial otter holt were to be implemented.

263. Letters of representation have also been received objecting to the proposal on the grounds that the existing overhead powerlines would impact on flocking birds once the site is resorted to a lake. In response to this matter, the RSPB comment that given that the birds likely to occur here are of low conservation concern and are not likely to appear in numbers of more than local importance, they do not consider it is necessary to divert the overhead powerlines and recommend the imposition of a condition requiring markers/reflectors to be attached to the overhead line. Given that the overhead power lines are situated outside the application site, outside the control of the applicant and attaching markers/reflectors would require the approval of Western Power Distribution, it is not considered appropriate to impose a condition in this circumstance, but the Head of Strategic Infrastructure and Economy notes that the applicant has given an undertaking to enter discussions with both the landowner and cable operator regarding this matter.

264. With regard to the proposed alignment of Footpath RP-501, Worcestershire Wildlife Trust and RSPB comment that they have concerns regarding the route of the Footpath and recommend that it is routed to the east, outside of proposed hedgerow to reduce disturbance to wildlife. The applicant has confirmed that the route of the Footpath has been arrived at as a result of seeking to stay as close as possible to the current alignment of the Footpath, reflecting concerns expressed by Public Rights of Way User Groups. The applicant has confirmed that users of the Footpath would be deterred from entering the nature conservation lake area due to the presence of a swale. The Head of Strategic Infrastructure and Economy is disappointed that the applicant has not proposed to alter the alignment of the Footpath as this would provide significant additional environmental benefits in terms of limiting human disturbance because pedestrians would not be seen so easily by wildlife, undermining the proposed bird watching area. Notwithstanding this, it is noted that the Wildlife Trust do not wish to object on these grounds; and it is acknowledged that there is a need to balance the interests of Public Right of Way

users and ecological matters, and accordingly the Head of Strategic Infrastructure and Economy considers that it does not constitute a refusal reason in this instance. Furthermore, the detailed planting design of the swale feature and surrounding land may pose the potential to plant taller vegetation to partially screen users of the Public Right of Way.

265. With regard to lighting, it is noted that any lighting installation would follow the recommendations of the '*Lighting in the Countryside: Towards Good Practice*' and '*Guidance Notes for the Reduction of Obtrusive Light*'. The applicant states that lighting at the site would be confined to the wharf area alone, and would include 4 LED shrouded down-lighters, 2 lighting the barge and 2 lighting the loading hopper, which would only be used during operational hours when barges are being loaded. The loading shovel would also have vehicle lights. Subject to the implementation of these mitigation measures it is considered the impact of lighting would be negligible.

266. In view of the above matters, the Head of Strategic Infrastructure and Economy considers that the "derogation tests" in the Habitats Directive can be met, and that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, including the nearby Upton Ham SSSI and Earl's Croome Meadow SSSI, subject to the imposition of appropriate conditions, as recommended in the submitted Environmental Statement, and by the County Ecologist, RSPB and Worcestershire Wildlife Trust; and the proposal would result in a net increase in biodiversity, in accordance with Section 11 of the NPPF.

Traffic, highway safety and impact upon Public Rights of Way

267. Objections have been raised by local residents and concerns raised by Ripple and Earls Croome Parish Councils regarding traffic and highways safety, in particular in relation to the suitability of Ryall Court Lane, as this has no footways, is used by domestic, agricultural and commercial vehicles and would pass through the farm yard where children play, posing a health and safety risk.

268. Vehicular access to the application site would be via Ryall Court Lane, which provides access to Ryall's Court Farm, beyond which are existing farm tracks which lead to the application site. As all sand and gravel is proposed to be transported to the existing processing plant at Ryall House Farm Quarry by barge along the River Severn, Ryall Court Lane would only primarily be required for the movement of plant and machinery for soil stripping and excavation operations, including an excavator, articulated dump trucks, bulldozers and a wheeled loading shovel. Plant and machinery would be transported by a low loader type HGV, except for dump trucks. There would also be periodic deliveries of fuel and occupational vehicle movements associated with plant maintenance. All these vehicles, except for the loading shovel, which would remain to load barges would be removed after each campaign.

269. HGV movements to and from the application site would occur 8 times per year (at the beginning and end of each the four campaigns per year). At the beginning of a campaign this would include about 2 low loaders and 2 dump trucks entering the site and 2 low loaders exiting the site; and at the end of a campaign this would include about 2 low loaders entering the site and 2 low loaders and 2 dump trucks exiting the site. This equates to about 12 HGV movements per campaign, with a total of approximately 48 HGV movements per annum. In addition, the proposal would generate about four light vehicles movements per day (2 vehicles entering the

site and 2 vehicles exiting the site), and a fuel delivery, which would be delivered by tractor and bowser trailer. During campaign periods light vehicle movements would increase to between 8 and 12 daily.

270. Ryall Court Lane is a rural road with no pedestrian footpath and is only public highway for about half of its length, turning into a private access track through Ryall's Court Farm. There is good visibility in both directions at the Ryall Court Lane / A4104 junction, with a 40mph speed limit along the A4014 in the vicinity of this junction. Ryall Court Lane is fully surfaced to the Ryall's Court Farm and is on average about 3.5 metres wide, with a series of informal passing places. The A4014 provides direct access to the A38, approximately 430 metres north-east of Ryall Court Lane. Both the A4104 and the A38 are identified on Worcestershire County Council's Advisory Lorry Route Map.

271. The applicant states that they would notify local residents along Ryall Court Lane and Court Lea of the campaign extraction periods and the dates when low loaders carrying HGVs would need to use Ryall Court Lane. In response to objections by local residents the applicant has confirmed that they would accept the imposition of conditions on any grant of planning permission that restricts the use of the lane to that of the frequency proposed within the application, as outlined above. Furthermore, the applicant is prepared to accept an additional limitation restricting the movement of plant along Ryall Court Lane to between the hours of 09:00 to 15:30 hours Mondays to Fridays, inclusive. The applicant has confirmed that an escort vehicle, equipped with flashing beacons would also proceed all plant movements along the lane to ensure that it is not occupied by any users between Court Lea and the termination of the public highway.

272. The applicant is also aware that Ryall Court Lane is sometimes used as part of a circulatory system facilitating access and egress to festivals at Fish Meadow. The applicant has confirmed that they would liaise with festival organisers to ensure that heavy plant movements do not coincide with the use of the lane by those attending festivals. The Head of Strategic Infrastructure and Economy welcomes the above management measures, which are considered appropriate to manage the temporary and intermittent minor traffic impact along Ryall Court Lane.

273. It is also not envisaged that this proposal would not have any indirect traffic impacts on Ryall House Farm Quarry when compared to the existing situation, as exports from Ryall House Farm would remain the same at approximately 180,000 tonnes per annum, equating to approximately 64 HGV movements per day (about 32 HGVs entering the site and 32 HGVs exiting the site per day).

274. Objections have also been raised regarding the proposed recreational use of the site, stating that this would likely generate more traffic than the mineral workings. The applicant proposes a lake, which is capable of recreational uses in its southern section, namely fishing, boating and quiet recreational pursuits. The Head of Strategic Infrastructure and Economy acknowledges their concerns, but considers that a separate planning permission would be required for this after-use and, therefore, an application would have to be made to Malvern Hills District Council for determination, which would be considered on its own merits.

275. The County Highways Officer has been consulted and has raised no objections to the proposal. Based on this advice, the Head of Strategic Infrastructure

and Economy is satisfied that the proposal would not have an unacceptable impact upon traffic and highway safety, subject to the imposition of appropriate conditions, in accordance with Policy SWDP 4 of the South Worcestershire Development Plan.

276. A number of Public Rights of Way are located in the vicinity of the application site, notably Footpath RP-501 that runs north to south through the eastern part of the application site, joining Footpath EA-519 in the northern part of the site; and the Bridleway of UU-508, a long distance recreational route of the Severn Way, which runs along the eastern bank of the River Severn. The Bridleways of UU-512, EA-546, EA-547, RP-505 and RP-506 run along the eastern boundary of the application site.

277. The applicant is proposing to temporarily close Footpath RP-501, which runs north to south through the eastern part of the application site, and provide a new re-aligned replacement footpath to be located adjacent to the eastern shore of the proposed lake. Bridleway UU-508 passes through the application site where the proposed wharf facility is to be located, therefore a minor diversion is proposed, relocating the Bridleway around the eastern perimeter of the wharf and surge pile area. As vehicles and plant would cross both Bridleways UU-508 and EA-547 (at the junction with Bridleway RP-505) a number of safety measures are proposed to warn both Bridleway users and quarry workers against the possibility of any potential conflict. This includes gating the crossing points and appropriate signage.

278. Malvern Hills District Footpath Society and the Open Space Society have raised no objections to the proposal. The County Footpath Officer also raises no objections, subject to the applicant adhering to their obligations to the Public Rights of Way.

279. The Ramblers Association support the proposal, subject to the Mineral Planning Authority being satisfied that the need for minerals is such as to justify their exploitation in this location, and subject to the County Archaeologist not objecting to the proposed location for the temporary storage of subsoils and overburden to be sited on the remains of a historic fields system; and the imposition of appropriate conditions. They request that the new Footpaths be explicitly required as a part of the grant of planning permission by way of a Creation Agreement; and that Footpaths EA-519 and RP-501 are closed by the use of a Temporary Closure Order with a condition and obligation to divert it to the route shown on the Restoration Plan. With regards to the Ramblers Association's comments the Head of Strategic Infrastructure and Economy acknowledges that the majority of the application site is allocated within the adopted Minerals Local Plan, and refers Members to the 'Best and Most Versatile Agricultural Land and Sieve Test/Methodology' and 'Historic Environment' sections of this report. The view of the County Footpath Officer has been sought in relation to the Ramblers Association comments in respect to the Creation Agreement. The County Footpath Officer is of the view that a Creation Agreement is not required in this instance, as the Footpath could be secured as part of any detailed Restoration Scheme condition; and also raises reservations regarding the use of Creation Agreements prior to mineral extraction commencing as sometimes the route subject to the Creation Agreement is not physically available when mineral extraction ceases.

280. The British Horse Society raises no objections, but request that the gates for the bridleway/haul road crossings are horse friendly designs that would allow riders to

open and close the gates without dismounting. The Head of Strategic Infrastructure and Economy considers this could be imposed as a condition should planning permission be granted. The British Horse Society are also disappointed that the lakeside walk proposed to compensate for the loss of Footpath RP-501 is not to be given bridleway status, and suggest that for this to be viable the new walk would need to link with other Public Rights of Way that have bridleway status, therefore, upgrading existing footpaths to bridleways would be required under Section 25 of the Highways Act. The applicant has confirmed that the Public Rights of Way referred to by the British Horse Society lie mostly outside the land controlled by CEMEX UK Materials Limited. Notwithstanding this, the applicant has passed the British Horse Society's comments onto the landowner for their consideration.

281. Objections have been raised by local residents stating that residents and persons visiting Day House and Day House Flat would have to pass through the working site. This poses a serious health and safety issue. The Head of Strategic Infrastructure and Economy notes that the crossing from the extraction area to the subsoil and overburden area that crosses Bridleway EA-547, which is used to access Day House Cottages would only be required for two seven week periods, the first at the commencement of Phase 1 and the second on completion of Phase 2, to allow the placement and removal of subsoils and overburden. To avoid the crossing being rutted it is proposed to be surface dressed with sand and gravel. The Head of Strategic Infrastructure and Economy considers that the proposed signage and gates arrangements would ensure the safety of the occupants and visitors to Day House Cottages.

282. The Head of Strategic Infrastructure and Economy considers that users of the Public Rights of Way, in particular along Bridleways EA-547 and UU-508 and Footpath RP-501 would experience a detriment to their amenity and enjoyment of the Public Right of Way in the countryside in the short and medium-term, but acknowledges that the proposed arrangements would cater for the legal line of the Public Rights of Way, with Footpath RP-501 being temporarily closed. In the long-term the restoration of the site would enhance the Public Rights of Way network, as a lakeside Public Right of Way would be created to compensate for the loss of Footpath RP-501, and an additional footpath would be created linking Public Rights of Way RP-519 and UU-508 via the north-western lake shore. Based on the advice of the County Footpath Officer it is considered that the proposed mitigation measures in respect of the Public Rights of Way crossings are acceptable, subject to the imposition of an appropriate condition.

Historic Environment

283. A number of heritage assets are located within the context of the application site, as outlined in paragraphs 34 to 37.

284. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty as respects to listed buildings in the exercise of planning functions. Subsection (1) provides that *"in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.

285. Paragraph 132 of the NPPF states that "*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a Grade II Listed Building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments...Grade I and II* Listed Buildings, Grade I and II* Registered Parks and Gardens...should be wholly exceptional*". Policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan also require development to conserve and enhance heritage assets, including their setting.

286. Paragraph 133 of the NPPF states that "*where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...*".

287. Paragraph 134 of the NPPF states that "*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*".

288. A number of letters of representation have been received objecting to impacts of the proposal, in particular the impact of the proposed wharf and surge pile area on the Grade II* Listed Building of Severn End and associated properties; and concerns that the wharf area would impact upon archaeological remains and World War II features (anti-landing ditches and defences). Objectors also refer to the recent planning judgments of *Barnwell Manor v. East Northamptonshire DC and English Heritage and others [2014] EWCA Civ 137* and *Mordue v Secretary of State for Communities and Local Government & Ors [2015] EWHC 539 (Admin)*. The Head of Strategic Infrastructure and Economy also notes the more recent Court of Appeal judgment *Mordue v Secretary of State for Communities and Local Government & Ors [2015] EWCA Civ 1243*.

289. In response to objections regarding the impact upon Severn End, the applicant has submitted a Heritage Settings Assessment. The Assessment notes that there would be no physical harm to Severn End or any other associated Listed Buildings or the historic parkland. The Assessment considers that the visibility of the proposed temporary wharf from the Listed Building is highly limited, with only the elevator area, of limited height, partially visible in views from upper storey windows of the northern wing only. This change, which is only temporary, to these limited views would not affect the appreciation of the parkland surrounding the Listed Buildings and forming its wider setting. Although part of the wharf and the surge pile could be visible from the driveway, such views are not key as the main views are towards the house, with any views of the river and the site peripheral. The views of the house, and its parkland setting, would not be harmed or altered. On completion of extraction the wharf would be restored back to the current land use.

290. As such, the Assessment concludes that the proposal would not lead to harm to the heritage significance of Severn End, and the elements of the setting contributing to the significance of the Grade II* Listed Building would be unharmed. It would also not harm the significance of the Grade II Listed Buildings with which it is associated. The proposal would not lead to either substantial, or less than substantial, harm to designated heritage assets, as specified in the NPPF.

291. The submitted Environmental Statement assessed the impacts of the proposal upon the Listed Buildings located within the wider landscape and concluded that the proposed development would not harm the value of any Listed Building. With regards to impacts upon the setting of the Conservation Area, the Environmental Statement concludes that the proposal would not harm any of the key characteristics of the Conservation Area. The dense built urban form of the Conservation Area means that views of the surrounding landscape are limited. The proposed development has no visual relationship with the majority of the Conservation Area. It would only be partly visible from Upton Bridge, concluding that the proposal would not harm the value of the Conservation Area.

292. Historic England has been consulted and has raised no objections, recommending that the specialist conservation advice of the District Council is sought. Malvern Hills District Council has been consulted and has raised no adverse comments in respect to impacts upon the historic environment.

293. Letters of representation have been received objecting to the location of subsoil and overburden area, as this would destroy a ridge and furrow earthworks and suggest an alternative location is available west of the application site, and immediately north of the overhead power lines, which form the southern boundary of the application site.

294. In response to the above objections, the applicant submitted an assessment, which confirmed that the majority of the ridge and furrow earthworks within the area proposed for overburden and subsoil storage are most likely of post-medieval date, and are, therefore, considered to be of negligible heritage value. The applicant has amended the proposal to avoid physical impact on the ridge and furrow earthworks of possible medieval origin, located in the north-west corner of the field, and proposes to segregate this area off with fencing.

295. With regards to the subsoil and overburden storage area, the County Archaeologist comments that whilst they do not entirely agree with the submitted assessment that the earthworks are of negligible significance. The County Archaeologist considers they are of a low significance and have some group value with further ridge and furrow earthworks to the north, nevertheless, the County Archaeologist agrees with the submitted assessment that they are not of such significance as to act as a bar on the use of the site for spoil storage.

296. The County Archaeologist considers that in principle they have no objections to use of the area of post-medieval ridge and furrow for subsoil and overburden storage if alternative areas are not reasonably and practicably available. With regard to the much smaller area of probable medieval ridge and furrow, they note that the applicant is proposing to fence this off from the working area for the duration of the works. The County Archaeologist considers that this is a suitable means of ensuring the preservation in-situ of these features. The affected area of ridge and

furrow as a whole can also be recorded prior to development thereby ensuring the preservation by record of the area to be lost.

297. In response to the comments from local residents regarding an alternative subsoil and overburden storage area, the applicant commented that *"it is the experience of both the Company and its hydrological advisors such a proposal is unlikely to be acceptable to the Environment Agency on the grounds of floodwater displacement and interruption to flood flows. Comparisons have been made with the surge pile at Ripple Quarry; however, the extant planning permission for Ripple predates current guidance with regards to flood risk. Furthermore, the proposed quarry site lies in much closer proximity to potentially flood sensitive properties, in particular those within Upton-upon-Severn, than does Ripple Quarry"*. In view of the above matters, the Mineral Planning Authority sought the advice of the Environment Agency with regards to the purported alternative location situated within the floodplain. The Agency commented that *"the surge piles are classed as 'water compatible' development and, therefore, are acceptable in areas at risk of flooding. However, this is only where assessments have been undertaken that show that this would not have adverse impacts to flood plain compensation, flood flow routes and impacts to third parties. It is sequentially preferable to locate such features at the areas at lowest risk of flooding, as the application has proposed. Indeed, this is a fundamental guiding principle of the NPPF and PPG"*. The aim of the Sequential Test is to steer development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is noted that the suggested alternative subsoil storage area is located within Flood Zone 3 (high probability); whilst the proposed subsoil storage area was chosen due to its location out of the floodplain (Flood Zone 1). In view of the advice and guidance contained within the NPPF and the Government's PPG regarding the Sequential Test, the Head of Strategic Infrastructure and Economy is of the opinion that there are no forthcoming reasonably and practicably available alternative areas for the storage of subsoils and overburden outside of the floodplain.

298. Having regard to the advice contained at paragraph 135 of the NPPF, which states *"the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset"*. In view of this and based on the advice of the County Archaeologist, the Head of Strategic Infrastructure and Economy considers that on balance, subject to the imposition of appropriate conditions, that the impact upon the ridge and furrow earthworks is not of such significance as to constitute a refusal reason in this instance. Furthermore, the affected area of ridge and furrow could be recorded prior to development and a condition is recommended to require this.

299. Objections from local residents have been received that consider the proposal may impact upon possibly ancient hedgerows, referring to the Hedgerow Regulations, 1997. Some hedgerows are protected by the Hedgerows Regulations, 1997. Hedgerows are graded on a two-tier system: 'important' and 'unimportant'. In order to qualify as important, hedgerows must meet criteria set out within the Hedgerow Regulations as encompassing wildlife, historic and landscape aspects. Hedgerows that qualify as important under these Regulations should only be

breached or removed following the application for, and receipt of, a Hedgerow Removal Notice from the Local Planning Authority. If removal of an important historic hedgerow is proposed as part of a planning application then its impact on the heritage significance of the area and its impact on the setting of any heritage assets around may be taken into account in accordance with planning policies in the NPPF.

300. The applicant has confirmed that the boundary hedges surrounding the area of subsoil and overburden area would not be directly impacted by the proposal. The Environmental Statement states that *"two stretches of hedgerow within the site are present along the lines of historic parish boundaries, and remaining boundaries are depicted on map sources pre-dating 1850. These fall under the criteria for 'important' hedgerows under the Hedgerows Regulations, 1997. The Regulations do not confer a level of heritage value, and as heritage assets, these hedgerows are of low heritage value. This is due to the fact that the historic landscape within the site has been subject to a large amount of boundary loss and exhibits limited coherence and time-depth (limited historic 'integrity')"*. In view of this, the proposed replacement hedgerow planting and having regard to the advice contained at paragraph 135 of the NPPF, it is considered that, on balance, the loss of these historic hedgerows is not of such significance as to constitute a refusal reason in this instance.

301. Letters of representation objecting to the proposal have also been received stating that there is also an unusual array of ground disturbance within Quay Meadow, which is suggestive of industrial or settlement activity and this should be assessed prior to determination of the application. In response to these concerns the applicant's archaeological consultant stated that *"no evidence has been presented in the additional representations for any heritage assets or greater than a low level of heritage significance, which would either not be affected by the proposals or would be affected to only a limited degree. National heritage policy clearly identifies that the level of detail provided with an application should be proportionate to the assets' importance. Furthermore, with regard to non-designated heritage assets a regard is required which considers the significance of the asset and the scale of loss. Both of these factors are very limited in the present case and little weight can be afforded. Mitigation measures may very suitably address this issue; specifically a programme of 'strip, map and sample' during construction phase of the haul road and elements of the quay construction. Detailed archaeological survey utilizing specialist techniques has provided extremely useful data on the key archaeological issue of the site; namely the potential for prehistoric and Roman occupation horizons buried beneath the alluvium. As carried out on similar depositional sequences, further survey and recording of any such remains is most appropriately carried out as an agreed programme of mitigation subject to an archaeological condition"*.

302. Notwithstanding the above assessment, the applicant states that they are willing to undertake the archaeological fieldwork, but the Company is neither the freeholder or leaseholder of the land in question and must gain the permission of both landowners to undertake this fieldwork. One of the landowners has granted permission to Cemex subject to making the land affected by the works good once completed. However, the second landowner has barred Cemex from access to the land unless they agree to a number of conditions, including the payment of an 'entrance fee' for their archaeological advisor's and agent's costs, and to allow their archaeological advisor free access to their consultant archaeologist's fieldwork. The

latter is not compatible with either Cemex's or the consultant archaeology's health and safety policies, whilst the former is considered unreasonable, particularly given the scale of works required. Furthermore, the first landowner has barred Cemex from agreeing to the terms of the second landowner, as it is considered to be outside the terms of the tenancy between the two parties.

303. The County Archaeologist has been consulted and has raised no objections, subject to the imposition of a condition requiring a programme of archaeological works. They comment that whilst there remains some uncertainty about the nature and significance of the earthwork features identified on Quay Meadow, the County Archaeologist is broadly in agreement with the applicant, who suggests that the earthworks are probably the result of previous post-medieval quarrying / mineral extraction and are of low significance. The pre-determination trial trenching that has been requested by the County Archaeologist is intended to provide a degree of certainty with regard to these questions of origin and significance. However, given that there are clearly significant issues regarding access permissions and entry fees that the applicant does not appear able to resolve and which are essentially outside their control it would seem that they are unlikely to be in a position to undertake the requested fieldwork at any point in the foreseeable future and prior to the determination of this application.

304. In these circumstances and given that the applicant has taken reasonable steps to facilitate the requested pre-determination fieldwork, in addition to having undertaken a borehole survey and producing an archaeological desk-based assessment and Cultural Heritage chapter for the Environmental Statement, the County Archaeologist considers it would be unreasonable to continue to recommend non-determination of the application until the requested pre-determination fieldwork has been undertaken, particularly as the area in question forms a relatively small part of the overall application site and non-determination of the application on these grounds could effectively be taken to result in the sterilisation of the mineral resource across the much larger application area. The applicant has stated that they are fully committed to a programme of post-determination archaeological mitigation works to be undertaken prior to the commencement of the development. The County Archaeologist considers that in the current circumstance and for the reasons noted above they are of the opinion that a reasonable and practicable approach would be to forego the requirement for pre-determination evaluation trenching and to deal with any further archaeological work that is required as part of the post-determination mitigation strategy.

305. The Head of Strategic Infrastructure and Economy considers that based on the advice of the County Archaeologist and Historic England that the proposed development would not have an unacceptable impact upon heritage assets, subject to the imposition of appropriate conditions, in accordance with Policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan.

Restoration and aftercare of the site

306. The applicant has submitted details of a restoration concept plan for the site in which the land would be progressively restored primarily to a landscape amenity lake within the confines of the extracted area, with the adjacent areas being restored to grassland and agricultural use. The lake would be about 15 hectares in area and have gradients ranging between 1:20 to 1:100 above the shoreline, with average levels of the restored landform approximately 0.75 metres above the predicted water

level. A wide bench would be created with scrapes and micro shoreline features and gentle gradients above to tie into the existing ground levels around the edge of the extraction area. The shoreline of the lake would have a number of bays and promontories and wide areas of shallow water for the establishment of red beds and wetland plant species. Beyond the lake would be shallow scrapes, dry ditches and swales. A wildlife viewing area is proposed, in the northern end of the site. In addition, hedgerows and hedgerow trees are proposed to be planted, with a small area of scrub woodland planting to shelter the nature conservation area. The lake would have a maximum depth of approximately 7 metres in the south, with an average depth of 5 metres. The Public Right of Way (Footpath RP-501), which runs north to south through the eastern part of the application site would be closed during the mineral extraction operations and re-instated along a diverted route to the east of the proposed lake on completion of the development. The minor diversion of Bridleway UU-508 in the vicinity of the barge loading area would be re-instated to its original alignment following the completion of the mineral working.

307. It is proposed to extract sand and gravel over a period of about 8 years in 5 phases, with progressive restoration and the site would be subject to a five year programme of aftercare. The RSPB and Worcestershire Wildlife Trust request a longer term aftercare and maintenance and letters of representation have been received which raise concerns regarding the long-term management of the site. In response to these comments the applicant has agreed to a 10 years aftercare scheme for the nature conservation area (northern part of the lake). A condition is recommended to this effect.

308. Given the comments from consultees, in particular the County Ecologist and County Landscape Officer, regarding the detailed design of the restoration scheme, and as the applicant states that "*this type of micro landform creation is most appropriately designed at the detailed implementation stage, which can take into account profiles, ground conditions and opportunities as the works are implemented*", it is considered that these detailed comments and minor changes could be achieved by the imposition of appropriate conditions.

309. As set out earlier in the report, objectors request that further mineral extraction takes places to the south of the site to create a landform capable of becoming a 1,000 metre rowing lake. The applicant has confirmed that "*whilst the Company is sympathetic to the aims of these objectors, it is felt that the timing of such a proposal is not right given the current source of aggregates is on the cusp of exhaustion and the length of time it considers would be likely to be required to develop a viable rowing lake proposal. The Company would be happy to be part of a consortium of interested parties seeking to progress the rowing course concept*". Therefore, as with all applications, this application should be determined on its own merits. The Head of Infrastructure and Economy considers that the proposal is an acceptable after use, due to its position on the floodplain of the River Severn; and considers that the restoration of this site would present a unique opportunity to achieve ecology and biodiversity enhancements. It is considered that the proposal and after use balances the needs of the landowner to derive an income post development, whilst at the same time providing nature conservation enhancements. Notwithstanding this, the Head of Infrastructure and Economy would welcome the applicant exploring the opportunity to create a rowing lake, either within the mineral void created as part of this proposal or a wider application area, but considers that further detailed studies and assessments would be required to facilitate this

alternative proposal, as the development proposed is Environmental Impact Assessment development, and to ensure it is capable of coming forward without conflicting with nature conservation. In this respect, it is noted that the RSPB would be disappointed if additional post-restoration land use was given over to active water based recreation as this would severely limit the future value of the wildlife habitat to be created. Furthermore, the Head of Infrastructure and Economy is aware that a rowing lake may require further structures, buildings and infrastructure within the floodplain, which may or may not be considered acceptable by the Environment Agency and Malvern Hills District Council, as the Local Planning Authority.

Other matters

Economic Impact

310. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development through the three dimensions of economic, social and environmental. In particular the NPPF sees the economic role of planning as *"contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating the development requirements, including provision of infrastructure"*.

311. In addition, the NPPF at Paragraph 19 states that the *"Government is committed to ensuring that the planning system does everything it can to support economic growth, and therefore, significant weight should be placed on the need to support economic growth through the planning system"*.

312. The applicant states that *"Ryall House Quarry has been in operation since 1990, and has become a strategically important source of sand and gravel and associated aggregates to the local economy for some 24 years. It has consistently supplied an average of some 180,000 tonnes of high quality sand and gravel products each year to meet a variety of uses."*

313. *The location is an important strategic location for CEMEX, with the quarry producing a wide range of construction materials, notably sands and gravels for concrete which thus feeds concrete batching plants in the county and sub region operated both by CEMEX and other concrete producers"*.

314. *The applicant also states that the proposed development "would employ 13 people during the extraction campaigns, with 2 permanent on site personnel, associated with the proposed ongoing barge loading operation. The proposal would ensure the continuation of employment opportunities for the existing 13 people employed directly at Ryall House Farm Quarry and the 4 hauliers, together with ongoing support to many local businesses as part of the supply chain. It contributes to the economy through taxes, business rates and aggregates levy contributions"*.

315. *"More generally the South Worcestershire Development Plan sets out important plans and aspirations for growth, including the building of 28,400 new houses, the development of 280 hectares of land for employment, and an additional 39,507 square metres of retail floor space (reference Policy SWDP3). These developments will require aggregate raw material to allow the various development projects to proceed, and Ryall House Farm Quarry, as a local source of aggregate supply, is both well placed and a vital component of continuity of aggregate supplies to such local projects"*.

316. It is also noted that the Minerals Product Association (MPA) estimates that *"the construction of a typical new house uses up to 50 tonnes of aggregates - from the foundations through to the roof tiles"*. Further aggregates are required for the construction of any supporting infrastructure and in the maintenance and refurbishment of the existing housing stock and other types of development. But broadly, based on this figure of 50 tonnes, the proposed development would provide enough aggregate for the construction of approximately 28,000 homes.

317. The Head of Strategic Infrastructure and Economy acknowledges that the NPPF affords significant weight to sustainable economic growth and notes that paragraph 142 of the NPPF states that *"minerals are essential to support sustainable economic growth and our quality of life. It is, therefore, important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs"*. Paragraph 144 of the NPPF also states that *"when determining planning applications, local planning authorities should give great weight to the benefits of the mineral extraction, including to the economy"*. It is considered that the proposal would provide a small number of direct employment opportunities, secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market. Therefore, it is considered that the proposal would provide substantial sustainable economic development benefits to the local economy in accordance with the NPPF and this weighs considerably in its favour.

Cumulative Effects

318. Cumulative effects result from combined impacts of multiple developments that individually may be insignificant, but when considered together, could amount to a significant cumulative impact; and the inter-relationships between impacts – combined effects of different types of impacts, for example noise, air quality and visual impacts on a particular receptor.

319. The applicant, in their Environmental Statement states that *"based upon the studies and content of the individual chapters, the underlying conclusion of the EIA is that there is no single topic or combination of issues which should objectively prevent the development from proceeding. This in part reflects that the majority of the site is identified in the adopted Minerals Local Plan as a 'Preferred Area' for the extraction of sand and gravel. The Plan making process considered the merits of a large number of competing sites and concluded that the Ryall North site had advantages compared to others and was environmentally suitable to accommodate sand and gravel quarry"*.

320. With regards combined impacts of multiple developments, the applicant notes that *"no existing mineral developments are present or visible from the site or its surroundings"*. There are a number of major residential developments proposed within Upton-upon-Severn and surrounding area, notably land at Welland Road for the erection of 43 dwellings (District Application Ref: 13/00009/FUL, granted), land at Ryall Court Lane for 6 dwellings (District Application Ref: 15/00751/OUT, granted), land off A4104 for erection of 6 dwellings (District Application Ref: 15/00617/OUT, pending completion of Section 106 Agreement for Planning Obligations and financial contributions), land at Ryall Road for 25 dwellings (District Application Ref: 15/00453/S73 granted; 13/00706/OUT granted; and

14/01633/REM granted) and land adjacent to Ryall Road for 33 dwellings (District Application Ref: 15/00684/FUL, pending completion of Section 106 Agreement for Planning Obligations). There is a further outline application pending decision by Malvern Hills District Council for redevelopment of the marina in order to provide up to 45 dwellings, replacement chandlery, boat yard, marina facilities, community hub, bar and restaurant together with vehicle parking, manoeuvring and access from A4014 at the Upton Marina (District Application Ref: 15/00988/OUT). But given that the proposed quarry would be relatively isolated in respect to these developments, being located on the River Severn floodplain, with as raised sand and gravel being transported by barge, it is considered that the proposal is not likely to result in combined significant environmental impacts. Furthermore, in responding to the consultation process, none of the statutory consultees responsible for those environmental areas where it is reasonable to envisage particular cumulative impacts (in particular for example in relation to air quality, noise, traffic and the water environment), have raised objections either in relation to the proposal in its own right or when assessed alongside the developments outlined above.

321. On balance, the Head of Strategic Infrastructure and Economy does not consider that having regards to these other developments that the cumulative impact of the proposed development would be such that it would warrant a reason for refusal of the application.

Impact upon Tourism

322. Malvern Hills District Council supports the proposal in principle and recognises the economic benefits that arise from mineral extraction, subject to the imposition of conditions including minimising the impact upon tourism. Objections have also been received from local residents regarding tourism and the impact to Severn End and Levant Lodge which are used as wedding venues, in particular noise, dust and visual impact.

323. The proposed limits of extraction coincide with the boundary of the overhead powerlines, therefore, the proposal does not extend into Fish Meadow, used as part of the Upton-upon-Severn festivals. Furthermore, it is considered that due to the flat expanse of the landscape, that the proposal can be accommodated within the landscape with limited visual impacts. Also due to the distance (approximately 620 metres) from the built up area of Upton-upon-Severn, about 250 metres south-east from Severn End and 670 metres from Levant Lodge, and as the applicant proposes to extract sand and gravel on a campaign basis, so that extraction operations would be intermittent and of a short duration. It is considered that the proposal could have a minor and limited adverse impact upon tourism within Upton-upon-Severn and Severn End and Levant Lodge as wedding venues. The impacts upon residential amenity (noise dust and visual impact) are set out earlier in this report, and are considered acceptable subject to appropriate conditions. Furthermore, in the long-term on restoration of the proposal, the final landform would facilitate a use capable of recreation in the southern part of the lake, and would provide ecological enhancements in the northern extent of the lake, with the reinstatement / creation and enhancement of Public Rights of Way. It is considered that this final restoration landform has the potential to have a positive impact upon tourism to Upton-upon-Severn and the surrounding area.

324. It is noted that a Point to Point course is located on the application site. The applicant has confirmed that they have met with the Point to Point organisers and

consider that it is likely, but not certain that the proposed quarry would disrupt the Point to Point whilst operational. However, much depends on how the site is developing at the time as to whether the races could take place in any given year. Post quarrying the applicant considers that the Point to Point could still take place, but this would be a decision for the Croome Estate.

Consultation

325. Local residents have raised objections and concerns regarding the pre-application consultation carried out by the applicant. The Head of Strategic Infrastructure and Economy notes that there is no statutory requirement for applicants to undertake pre-application public consultation on such applications. However, it is considered good practice for applicants to undertake public consultation on all application proposals at the pre-application stage. This is emphasised in the NPPF (paragraphs 188 and 189) and in the County Council's Statement of Community Involvement (February 2015).

326. It is noted that prior to the submission of the planning application, the applicant held a two day exhibition in the Memorial Hall in Upton-upon-Severn on the 13 and 14 November 2014. The applicant states that this event was "*publicised by contacting the Clerks of all four Parish Councils by email, posting information on Parish notice boards and the door of the exhibition venue*". The Head of Strategic Infrastructure and Economy acknowledges that the applicant undertook pre-application consultation and considers that it is ultimately a decision for the applicant on how to undertake pre-application public consultation, the extent to which it is advertised, and if and how comments received are taken into account in the preparation of their planning application.

Human Rights Act 1998

327. Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.

328. The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.

329. All material planning issues raised through the consultation exercise have been considered and it is concluded that by determining this application the Mineral Planning Authority would not detrimentally infringe the human rights of an individual or individuals.

Land ownership

330. Objections have been received stating that the applicant does not have control over the application site (red line) or other land within the applicant's control (blue line). The Head of Strategic Infrastructure and Economy notes that anyone may make a planning application, and no interest in the site that is the subject of a proposal is necessary, although, the owners of land must be formally notified before an application can be considered. The Head of Strategic Infrastructure and

Economy advises that lack of ownership is not a material planning consideration in the determination of applications, even if there is doubt as to the feasibility of acquisition of any of the land forming the site.

331. With regard to the blue line (other land in the applicant's control), the applicant has confirmed that *"the blue line indicates the extent of the land the Company is seeking to enter into an option with the landowners. Negotiations have been taking place in parallel with consideration of the application"*.

Conclusion

332. The proposed development seeks to bring forward the development of an allocated minerals site within the adopted Minerals Local Plan and an area of land immediately to the south, which is identified as an area of known deposits. Sand and gravel would be extracted on a campaign basis, in 5 phases over an 8 year period and would be transported by barge along the River Severn to the existing Ryall House Farm processing plant. A separate application (Application Ref: 15/000012/CM) has been made to the Mineral Planning Authority to retain this facility (see Agenda Item 6).

333. The NPPF advises that minerals planning authorities should plan for a steady and adequate supply of aggregates by making provision for the maintenance of landbanks of at least 7 years for sand and gravel. Worcestershire's landbank is less than 1 year and consequently, the County Council currently does not have sufficient reserves of sand and gravel available with planning permissions to meet its share of the sub-regional apportionment and annual provision requirements based on sales in accordance with national planning policy and guidance.

334. The proposed development would be located on best and most versatile agricultural land. Policy 2 of the adopted Minerals Local Plan sets out a criteria for which sites that are not a preferred area of sand and gravel extraction should be assessed. The southern part of the application site needs to be judged against this sieve test. Best and most versatile agricultural land is a primary constraint within Policy 2, however, as Natural England has not raised an objection to the proposal on grounds of impact upon best and most versatile agricultural land or permanent pasture land, the Head of Strategic Infrastructure and Economy considers that refusal of planning permission on these grounds could not be upheld on appeal.

335. The Head of Strategic Infrastructure and Economy considers that whilst there would be changes to the visual appearance of the site, these impacts would be localised in effect and mitigation measures would limit the extent of the disturbance visible at any one time. Based on the advice of the County Landscape Officer, it is considered that the proposed development would not have an unacceptable impact upon the character and appearance of the local area, including the Registered Park and Garden of 'The Park', subject to the imposition of appropriate conditions.

336. The Head of Strategic Infrastructure and Economy considers that, subject to the imposition of appropriate conditions relating to operating hours, requiring a detailed lighting scheme and implementation of the mitigation measures outlined in the submitted Environmental Statement (Air Quality and Noise Sections) there would be no adverse air pollution, noise, dust or lights impacts on residential amenity or that of human health.

337. Based on the advice of the Lead Local Flood Authority, South Worcestershire Land Drainage Partnership and the Environment Agency, the Head of Strategic Infrastructure and Economy considers the impacts upon the water environment including hydrology, hydrogeology and users of the River Severn would be acceptable subject to the imposition of appropriate conditions.

338. It is considered that the "derogation tests" in the Habitats Directive can be met, and that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, including the nearby Upton Ham and Earl's Croome Meadow SSSI's, subject to the imposition of appropriate conditions, as recommended by the County Ecologist and Worcestershire Wildlife Trust; and the proposal would result in a net increase in biodiversity, in accordance with Section 11 of the NPPF.

339. Based on the advice of the County Highways Officer and County Footpath Officer, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would not have an unacceptable impact upon traffic, highway safety or Public Rights of Way, subject to the imposition of appropriate conditions. The Head of Strategic Infrastructure and Economy also welcomes the use of the River Severn to transport sand and gravel as a more sustainable form of transport compared to freight.

340. A number of heritage assets are located within the context of the application site, this includes Severn End a Grade II* Listed Building and associated Grade II Listed buildings and structures, located on the western bank of the River Severn. Based on the advice of Historic England and the County Archaeologist it is considered that the proposed development would not have an unacceptable impact upon heritage assets, subject to the imposition of an appropriate pre-commencement condition, in accordance with Policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan.

341. The Head of Strategic Infrastructure and Economy acknowledges that the NPPF affords significant weight to the need to support economic growth. It is considered that the proposal would provide a small number of direct employment opportunities, secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the market. Therefore, it is considered that the proposal would provide substantial sustainable economic development benefits to the local economy in accordance with the NPPF.

342. It is considered that the proposal could have a minor and limited adverse impact upon tourism, and in the long-term the final restoration landform has the potential to have a positive impact upon tourism to Upton-upon-Severn and the surrounding area. Finally, the Head of Strategic Infrastructure and Economy does not consider that the cumulative impact of the proposed development would be such that it would warrant a reason for refusal of the application.

343. On balance, taking into account the provisions of the Development Plan and in particular Saved Policies 1 and 2 of the adopted County of Hereford and Worcester Minerals Local Plan and Policies SWDP 1, SWDP 2, SWDP 3, SWDP 4, SWDP 5, SWDP 6, SWDP 21, SWDP 22, SWDP 23, SWDP 24, SWDP 25, SWDP 28, SWDP

29, SWDP 31, SWDP 32, SWDP 39 and SWDP 40 of the adopted South Worcestershire Development Plan, it is considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

Recommendation

344. The Head of Strategic Infrastructure and Economy recommends that, having taken the environmental information into account planning permission be granted for the proposed minerals extraction of about 1.4 million tonnes of sand and gravel and erection of a temporary wharf with progressive restoration to a landscaped lake on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn, Worcestershire, subject to the following conditions:

Permission

- a) **The development must be begun not later than the expiration of three years beginning with the date of this permission;**
- b) **The operator shall provide written notification to the Mineral Planning Authority at least seven days but no more than fourteen days prior to:**
 - i. **The commencement of the development hereby permitted;**
 - ii. **The date of commencement of mineral extraction in any phase;**
 - iii. **The date of commencement of soil stripping in any phase;**
 - iv. **The date of completion of mineral extraction in any phase; and**
 - v. **The completion of mineral extraction;**
- c) **The development hereby permitted shall be carried out in accordance with the following documents and drawings, except where otherwise stipulated by conditions attached to this permission:**

Documents:

- **Planning Application Statement – Ryall North Quarry, dated 10 March 2015**
- **Supplementary Supporting Statement – Ryall North Quarry – Proposed Extraction of Sand & Gravel, dated October 2015**
- **Flood Risk Assessment for Quarry development at Ryall Quarry North, Upton-upon-Severn, dated February 2016, and**
- **Memorandum, titled: Ryall North – Private Water Supply Abstraction at Day House Cottage, dated 3 March 2016;**

Drawings:

- **14_C060_RYLN_001 – Application Plan**
- **14_C060_RYLN_003 – Topographic Survey**
- **14_C060_RYLN_004_A – Location of Proposed Wharf**
- **14_C060_RYLN_005 – Cross Sections**
- **14_C060_RYLN_006_B – Indicative Wharf Design**
- **14_C060_RYLN_007 – Public Rights of Way**
- **14_C060_RYLN-009 – Crossing Detail PROW 508(B)**

- 14_C060_RYLN_010 – Crossing Detail PROW 505(B)
 - 14_C060_RYLN_12 – Tree and Hedgerow Overview
 - 14_C060_RYLN_015 – Extent of Proposed Conservation Area
 - 15-S006-RYN-D-001 – Phase 1
 - 15-S006-RYN-D-002 – Phase 2
 - 15-S006-RYN-D-003 – Phase 3
 - 15-S006-RYN-D-004 – Phase 4
 - 15-S006-RYN-D-005 – Phase 5
 - 15-S006-RYN-D-006 – Restoration Landform
 - SO8542 D 3050 110805 – Overburden Isopachytes
 - SO8542 D 3051 110805 – Minerals Isopachytes
 - SO8542 D 3052 110805 – Bedrock Surface Contours;
 - RYN/007 A – Restoration Plan
 - 15-S128-RYN-D-002 – Soil bunds and
 - 15-S128-RYN-D-003 – Cross Sections 1-3;
- d) All mineral extraction shall cease and the site shall be restored in accordance with the approved restoration scheme as required by Condition k) before 31st December 2026. Should extraction cease before this date the Mineral Planning Authority shall be notified in writing within 1 month of extraction ceasing;
- e) No extraction of sand and gravel shall take place outside the limit of the extraction boundary shown on the Drawing titled: 'Restoration Landform', Numbered: 15-S006-RYN-D-006;
- f) No processing or treatment of sand and gravel shall take place on the site;
- g) This permission does not allow the importation of waste material onto the site;
- h) Prior to the construction of any site compound or buildings, details of the location, design and materials of the site compound and/or buildings shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;

Working Hours

- i) Except in emergencies, all operations and uses on the site including the running of any plant or machinery and loading of barges, shall only take place between 07:30 to 18:30 hours Mondays to Fridays, inclusive, and 07:30 to 12:00 hours on Saturdays, with no operations on the site at any time on Sundays or Bank Holidays. The Mineral Planning Authority shall be informed in writing within 48 hours of an emergency occurrence that would cause working outside the stipulated hours;

Phasing

- j) The development hereby approved shall be carried out in accordance with the working programme, progressive restoration and phasing shown on Drawings Numbers: 15-S006-RYN-D-001; 15-S006-RYN-D-002; 15-S006-RYN-D-003; 15-S006-RYN-D-004; 15-S006-RYN-D-005; and 15-S006-RYN-D-006;

Restoration

- k) Within 12 months of the commencement of the development hereby approved, a detailed restoration scheme for the site, including the wharf and surge pile area shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme;
- l) Prior to soil stripping operations of Phase 3, as shown on Drawing Numbered: 15-S006-RYN-D-003, a scheme for the restoration of the fields subject to 'short-term soil & overburden storage' as shown on Drawing Numbered: 15-S006-RYN-D-001, shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;

Aftercare

- m) The nature conservation area as defined on Drawing Numbered: 14_C060_RYLN_015 shall undergo aftercare management for a 10-year period; all other land within the application site shall undergo aftercare management for a 5-year period. Prior to any area being entered into aftercare the extent of the area and its date of entry into aftercare shall be agreed in writing with the Mineral Planning Authority;
- n) An aftercare scheme for each phase shall be submitted to the Mineral Planning Authority for approval in writing within 6 months of the completion of mineral extraction in the preceding phase. Such a scheme shall specify the steps which are to be taken to bring the land up to the required standard for the land uses shown on the Restoration Scheme, as required by Condition k). These steps shall include the following:
- i. Control of invasive species;
 - ii. The submission of Habitat Management Plan setting out the actions that are to be undertaken to guide the initial habitat / vegetation establishment works, habitat creation and ongoing restoration including management practices such as cutting and removal of vegetation, grazing, pollarding and protection and replacement of tree and shrub plantings;
 - iii. Management of soil, fertility and weeds;
 - iv. Drainage;
 - v. A timetable for undertaking the aftercare scheme; and
 - vi. The establishment of an aftercare working group comprising of the operator, the Mineral Planning Authority and ecological

specialists including a timetable for frequency of meetings. The working group shall assess and review the detailed programmes of aftercare operations and the setting out of actions for subsequent years having regard to the condition of the land, progress on its rehabilitation and necessary maintenance;

Thereafter, the development shall be carried out in accordance with the approved details in accordance with the approved timetable, or as amended in consultation with the Mineral Planning Authority following each annual review of performance;

Landscape

- o) Notwithstanding the submitted details, prior to the commencement of the development hereby approved, an Arboricultural Method Statement and Tree Protection Plan, which shall outline which hedgerows shall be managed to allow them to grow up, shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**
- p) Notwithstanding the submitted details, within 12 months of the date of this permission a detailed planting scheme to include native species, sizes, numbers, spacing, densities; locations; and a planting specification shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**

Soil Handling and Storage

- q) All soil handling shall be carried out in accordance with the Ministry of Agriculture, Fisheries and Food 'Good Practice Guidance for Handling Soil' (2000) and the DEFRA 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (2009);**
- r) Soil stripping shall not take place until any standing crop or vegetation has been cut and removed;**
- s) The topsoil shall be stripped to the full depth down to 250mm at its maximum depth, all subsoil shall be stripped to a depth of 950mm at its maximum, and wherever possible both topsoil and subsoil shall be directly placed as part of restoration following stripping;**
- t) Topsoil and subsoil stripping shall only be carried out when the entire volume of soil to be stripped is in a dry and friable condition;**
- u) All stripped topsoils and subsoils shall be permanently retained on site for subsequent use in restoration, as detailed in the application;**
- v) For purposes of storage and placement of soils, topsoil shall only be mixed with topsoil and subsoil shall only be mixed with subsoil or other soil-making materials;**

- w) Prior to the use of any area for the storage of subsoil or overburden that area shall first be stripped of topsoil;
- x) Plant or vehicles shall not cross areas of unstripped topsoil or subsoil except for the express purpose of stripping operations;
- y) The temporary topsoil storage bunds as shown as on Drawing Numbered: 15-S006-RYN-D-001 shall be constructed to a maximum height of 3 metres prior to the extraction of sand and gravel from Phase 1, and shall only be removed upon completion of sand and gravel extraction in Phase 2, as shown on Drawing Numbered: 15-S006-RYN-D-002;
- z) The storage of subsoils and overburden shall be in accordance with Drawings Numbered 15-S128-RYN-D-002 and 15-S128-RYN-D-003, and shall not exceed a height of 5 metres;
- aa) Prior to the commencement of soil stripping operations, a scheme for the seeding and management of all soil storage mounds that will remain in situ for more than 3 months or over winter shall be submitted for the written approval of the Mineral Planning Authority. Seeding and management of the storage mounds shall be carried out in accordance with the approved scheme and thereafter maintained free of weeds throughout the development;
- bb) Only low ground pressure machines should work on relaid topsoil or subsoil to replace and level topsoil. Topsoil shall be lifted onto subsoil by equipment that is not standing on either relaid topsoil or subsoil;
- cc) Topsoil shall be re-spread to achieve at least the minimum settled depth of 250mm. The respread topsoil shall be loosened and ripped:
 - i. to provide loosening equivalent to a single pass at a tine spacing of 0.3 metres or closer;
 - ii. to full depth of the topsoil plus 100mm; and
 - iii. any non-soil making material or rock or boulder or larger stone lying on the loosened topsoil surface and greater than 100mm in any dimension shall be removed from the site or buried at a depth not less than 2 metres below the final settled contours;
- dd) Subsoil and any soil making materials shall be levelled to provide an even depth across the re-laid area so that the total thickness of settled subsoil conforms with the approved landform referred to in condition k);

Access and Highways Safety

- ee) Vehicular access to and from the site shall only be gained via Ryall Court Lane only, as shown on Drawing Numbered: 14_C060_RYLN_001;

- ff) The use of Ryall Court Lane for the transportation of plant and machinery shall only be used between the hours of 09:00 to 15:30 hours Mondays to Fridays, inclusive;
- gg) All sand and gravel extracted from the site shall be transported by barge only;
- hh) Prior to the construction of haul routes, a plan showing the position of the haul routes shall be submitted to and approved in writing by the Mineral Planning Authority, thereafter the development shall be carried out in accordance with the approved details;
- ii) No mud, dust or debris shall be deposited on the public highway;

Public Rights of Way

- jj) Notwithstanding the submitted details, prior to the commencement of soil stripping operations details of the gates to be installed at the Public Right of Way crossing points, which cross Bridleways UU-508 and EA-547 / RP-505, as shown on Drawing Numbers: 14_C060_RYLN_009 and 14_C060_RYLN_010 shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;

Lighting

- kk) Details of any lighting to be installed at the site, including the temporary wharf shall be submitted to the Mineral Planning Authority for approval in writing prior to being erected. These details shall include:
- i. Height of the lighting posts
 - ii. Intensity of the lights
 - iii. Spread of light in metres (Lux plan)
 - iv. Any measure proposed to minimise the impact of the lighting or disturbance through glare;
 - v. Any measures to minimise the impact of lighting upon protected species and habitats, in particular bats; and
 - vi. Times when the lighting would be illuminated;

Noise

- ll) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times, and shall be fitted with and use fully operational silencers;
- mm) All mobile plant, machinery and vehicles (excluding delivery vehicles which are not owned or under the direct control of the operator) used on the site shall incorporate white noise reversing warning devices;
- nn) The following measures shall be undertaken to minimise noise emissions within the site arising from all operations including vehicular

movements, extraction operations, minerals, soils and overburden stockpiling and soil spreading operations:

- i. Internal haul routes shall be routed such that separation distances to noise sensitive properties is maximised;**
- ii. All haul roads are kept clean and maintained in a good state of repair to avoid unwanted rattle and body slap from vehicles;**
- iii. All mobile plant and heavy goods vehicles within the site shall move in a manner to minimise, as far as is practical and safe, noise from reverse warning systems;**
- iv. The minimisation of drop heights during loading and unloading of sand and gravel;**
- v. Plant that is used intermittently, shall be shut down when not in use;**
- vi. Any pumps, generators and compressors shall either be electrically powered and fitted with an acoustic cover where necessary; or diesel powered pumps, generators and compressors shall be installed within acoustic enclosures;**

Dust

oo)The following measures shall be undertaken to suppress dust emissions within the site arising from all operations, including vehicular movements, extraction operations, minerals, soils and overburden stockpiling and soil spreading operations:

- i. The provision of a water bowser and/or static/mobile spraying units, which shall be used at all times when there is a risk of dust arising from the moving and storage of soil and overburden, mineral extraction, processing and manoeuvring operations;**
- ii. The sweeping of access and haul roads, where necessary;**
- iii. The minimisation of drop heights during loading and unloading of sand and gravel;**
- iv. all plant and vehicles shall have upward facing exhausts to ensure that emissions are directed away from the ground;**
- v. there shall be a maximum speed limit of 10 mph within the site;**
- vi. the cessation of operations in conditions when dust cannot be controlled;**

Stockpiles

pp)The height of any stockpiles of sand and gravel shall not exceed 7.5 metres;

Water environment

qq)Prior to soil stripping operations a Flood Management Plan shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;

rr) Prior to the construction of the wharf and surge pile infrastructure hereby approved, a Method Statement and detailed scheme for the

design and construction of the wharf and surge pile infrastructure shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;

- ss) Prior to the commencement of the movement of barges from the development hereby approved to the Ryall House Quarry site (Application Ref: 15/000012/CM), a series of trial runs shall take place and be overseen by the Canal and Rivers Trust to ensure that the new freight operations are safe and not detrimental to the navigation or our other users. The trial runs shall include approaching and turning at the wharf site hereby approved, to test the submitted 'Risk Assessment & Method Statement – Ryall North to Ryall Quarry' scenarios and assumptions;**
- tt) Within 12 months of the date of this permission, a scheme that sets out how the water level within the restored lake would be managed shall be submitted and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**
- uu) The following measures shall be undertaken in order to mitigate the risk of water pollution arising during the mineral extraction operations and subsequent restoration works:**
- i. There shall be a maximum speed limit of 10 mph within the site to reduce the likelihood and significance of any collisions;**
 - ii. All plant should be regularly maintained and inspected daily for leaks of fuel, lubricating oil or other contaminating liquids;**
 - iii. Maintenance of plant and machinery should be undertaken within the site compound approved under Condition h) or off-site, as appropriate, to minimise the risk of uncontrolled release of polluting liquids; and**
 - iv. Discharge water from the dewatering of the excavation shall be pumped into a settlement lagoon to remove any suspended solids before being discharged from the site;**
- vv) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and site glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels, overflow pipe outlets shall be detailed to discharge downwards into the bund;**

Ecology and biodiversity

- ww) The development hereby approved shall be carried out in accordance with the submitted 'Ecological Management Plan for Ryall North, Ryall's Court Farm, Ryall Court Lane, Upton-upon-Severn, Worcestershire, WR8 0PF', dated February 2015;**
- xx) Within 12 months of the date of this permission, the content, design and location of biodiversity interpretation panels and the bird hide to be erected within the nature conservation area shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**
- yy) Within 12 months of the date of this permission, details of the provision to be made for bird and bat boxes on the site, including specification, number, location and timetable for their installation shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**
- zz) Details of any otter holt to be installed at the site, including its specification and location shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**
- aaa) Within 12 months of the date of this permission an Ecological Monitoring Strategy shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;**

Archaeology

- bbb) Prior to the commencement of the development hereby approved, a programme of archaeological work, including a Written Scheme of Investigation, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include an assessment of significance and research questions; and:**
- 1. The programme and methodology of site investigation and recording;**
 - 2. The programme for post investigation assessment;**
 - 3. Provision to be made for analysis of the site investigation and recording;**
 - 4. Provision and timetable to be made for publication and dissemination of the analysis and records of the site investigation;**
 - 5. Provision and timetable to be made for archive deposition of the analysis and records of the site investigation; and**
 - 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;**

Thereafter the development shall be carried out in accordance with the approved scheme;

ccc) Prior to soil stripping operations, details of the medieval ridge and furrow protective fencing to be installed within the fields subject to 'short-term soil & overburden storage' as shown on Drawing Numbered: 15-S006-RYN-D-001 shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details;

Topographical Survey

ddd) A topographical survey of the site shall be carried out annually and supplied to the Mineral Planning Authority. Supplementary topographical surveys shall be undertaken upon the written request of the Mineral Planning Authority and supplied to the Mineral Planning Authority within four weeks of a written request;

Local Liaison

eee) Within 6 months of the date of this permission a scheme that sets out measures for liaison arrangements with the local community shall be submitted to, and approved in writing by the Mineral Planning Authority. The approved scheme shall be implemented for the duration of the development; and

In the event of Cessation of Workings

fff) In the event of a cessation of winning and working of minerals prior to the achievement of the completion of the approved restoration and aftercare schemes which in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, a revised scheme, to include details of reclamation and aftercare, shall be submitted to and approved in writing by the Mineral Planning Authority, within 6 months of written notice from the Mineral Planning Authority of the requirement of such a scheme. The revised scheme shall be implemented within 12 months of its approval in writing by the Mineral Planning Authority or such revised timescale as shall be determined by the Mineral Planning Authority;

Contact Points

County Council Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Head of Strategic Infrastructure and Economy) the following are the background papers relating to the subject matter of this report:

The application, plans and consultation replies in file reference 15/000013/CM.