

**PLANNING AND REGULATORY COMMITTEE
28 SEPTEMBER 2021****WINNING AND WORKING OF SAND AND RESTORATION
TO AGRICULTURE (PASTURE FOR HORSES) (PART
RETROSPECTIVE) AT FORMER MOTOCROSS SITE,
ADJACENT TO WILDEN LANE, WILDEN, STOURPORT-ON-
SEVERN, WORCESTERSHIRE**

Applicant

A C Buck and Son Ltd

Local Members

Cllr Chris Rogers and Cllr Paul Harrison

Purpose of Report

1. To consider a County Matter planning application for the winning and working of sand and restoration to agriculture (pasture for horses) (Part Retrospective) at former motocross site, adjacent to Wilden Lane, Wilden, Stourport-on-Severn, Worcestershire.

Background

2. The Mineral Planning Authority (MPA) received a Screening Opinion request, under the Environmental Impact Assessment Regulations (EIA) 2017 (as amended) on 28 January 2020. The proposal, which was the subject of the Screening Opinion request, was for the extraction of approximately 300,000 tonnes of sand and the importation of approximately 220,000 cubic metres of inert material (soil) in order to restore the site to pasture suitable for horses. The MPA issued its Screening Opinion on 9 March 2020. The MPA considered that the proposal would not create any significant effects on the environment by virtue of its characteristics, location and characteristics of its potential impact. Therefore, the MPA considered that the proposed development would not be EIA development and an Environmental Statement would, therefore, not be required.

3. As part of the planning application submission (MPA Ref: 20/000042/CM), the applicant has set out that the previous owners of the site had allowed the site to be used, under licence, as a motocross track. That use had involved the remodelling of the land to make a landform that was more interesting and challenging for motocross riders. At some point during that use, the site was stripped of soils and most of these were removed from the site. The applicant has set out that they took possession of the application site and adjacent land in June/July 2019.

4. The applicant has set out that the removal of the soil means that there is little in the way of growing medium with the result that there is very little vegetation, even through natural regeneration, on those areas which were undisturbed by motorcycles and the effect is erosion of the finer material. It is understood that silt and sand is

regularly washed onto Wilden Lane, and as a result the County Highways Authority (Highways Maintenance) have to regularly clean the road, and had requested that the applicant resolve this as a matter of urgency.

5. The applicant would like to return the land to a position where horses can be grazed. The applicant has stated that he has registered exemptions with the Environment Agency (EA) for the importation of soils. The applicant has been advised, subsequent to registering these exemptions, through discussion and correspondence with officers of the MPA that the remodelling of the site, removal off-site of sand and the importation of soils are operations that require planning permission.

6. Due to the ongoing deposition of silt onto the public highway the applicant undertook emergency works, creating a landform in the lower elevation of the site that would provide a short-term solution. This landform change consists of the creation of three interlinked ponds for the capture of surface water. However, without the full suite of proposals being undertaken, the applicant considers that this narrowed scope of works would only provide a short-term resolution and erosion would continue at a later date.

7. Through undertaking these land forming works, the applicant identified additional resources of indigenous soil than were previously anticipated which, along with the intention to create wider areas of acid grassland, means that the level of proposed importation would be less than previously envisaged.

8. The applicant has stated that there is an additional cost to resolving the short-term issues relating to the highway and a significant cost with respect to preventing the recurrence in the long-term. The applicant acknowledges that the removal of sand off-site would enable an income to be realised which would enable the overall cost of the long-term solution to be achieved.

The Proposal

9. The applicant has stated that the principal aim of the development is to provide grazing for horses on a permanent basis and that the horses would thrive on a diet of grass supplemented by winter feed. They have set out that the sequence of working reflects the normal set up and functioning of a mineral site through to reclamation. 'Reclamation' in this instance is used to encompass those operations which are defined as 'restoration' and 'aftercare', being the creation of a landform with the placement of soils and the bringing of the land to the required standard for the after-use to take place. The applicant operates as an earthmoving contractor and has stated that he would have access on a contract by contract basis to clean soil resources.

10. The applicant has set out that approximately 300,000 tonnes of sand would be extracted over a three year period and that a maximum of 120,000 tonnes of sand would be processed per annum. They have also set out that the maximum depth of surface working would be 4 metres. The applicant has set out that approximately 21,000 cubic metres of soil would be imported and that this would be spread to an average thickness of 300mm. In terms of soil density, the applicant has set that there

is a range that can be used of between 1.2 and 1.7 tonnes per cubic metre, which is why the figure has been expressed in this way, effectively a maximum 300mm coverage across the site. This equates, using a figure of 1.5 as 30,500 tonnes but they have also referenced that there is some existing indigenous soil resources on site already and there would be areas which are proposed for acid grassland, which would not need this depth of coverage.

11. Two access points are proposed, one off Wilden Lane to the west and one off Wilden Top Road to the east. The applicant has set out that the proposals have been designed to make optimum use of the layout of the site with two access points to avoid conflict between vehicles and remodelling starting at the highest elevation so that the earliest restoration occurs adjacent to other agricultural land. They have also stated that consideration has been given to preventing, at the earliest opportunity, further material being washed away from the site onto the public highway.

12. The highest part of the site is around 58 metres Above Ordnance Datum (AOD), and includes the land where the access track to Wilden Top Road is located, which measures approximately 300 metres long. The land falls broadly in a westerly direction to the lower part of the site, located adjacent to Wilden Lane, which the applicant has stated is about 33 metres to 41 metres AOD.

13. The remodelling of the site would commence at the upper levels from the highest elevation in the east of the site and continue downwards and westwards to the proposed plant site and beyond to the existing access point on Wilden Lane. Horizontal platforms would be formed in a series of approximately 2 metre high 'steps' down to the elevation of Wilden Lane in the west that allow the upper elevation to graduate down to the roadside elevation with as much horizontal, stabilising land between the two points as can be achieved. These steps would be achieved by the placement of a 45 degree batter with a French drain at the base filled with single size aggregate derived from the screening of on-site material and occasional tree planting along the batter length.

14. The number of terraces has been shown as a gradual decline from the upper plateau at the east of the site down to a level which corresponds to the upper height of the adjacent road verge on Wilden Lane. When soils are known to be imminently available the applicant has set out that the plateau profile would be prepared into a level surface with the batters and drainage channels. The applicant has set out that there would necessarily be variation in the width of the terraces and, in places, the depth in order to feather into the edges of the site and to adjust to the variation in the road height. The applicant has set out that the gradient on the batters would be too steep for safe passage by horses so the upper and lower extents would be fenced with post and rail fencing.

15. The sand removed from the platform areas would be transported to a processing area in the south-west of the site where the sand would be separated from the stone. The applicant has set out that minimal stockpiling of sand would take place and the stone would be used to create French drains at the base of each batter. Horizontal areas would receive soils that have been recovered from the site or imported to the site. The indigenous soils would mainly be used for the creation of

acid grassland at the north and south of the site area where the contours are 'feathered in' to the surrounding landform. The thickness of soils in these areas would be reduced to approximately 100mm. Following the placement of soil, it would be seeded with a suitable grass seed mix for grazing horses.

16. The applicant has set out that there would be an offset of 10 metres from the south-eastern boundary of the site in order to prevent damage to the root zone of the mature woodland.

17. The applicant has set out that all vehicles arriving and leaving the site in connection with the export of sand would access the site, arriving from the north, at the recently improved access in the south-west corner of the site, adjacent to Wilden Lane . They have also set out that all vehicles departing via this location would turn right (north) to avoid residential properties in Wilden. In order to avoid conflict between vehicles, deliveries of soil would arrive at the site and depart via the upgraded access road onto Wilden Top Road. The applicant has set out that road-going vehicles would not be able to achieve traction to take soils from the lower access point up the existing sloping sand. The applicant has set out that they would operate a road sweeper, and that they have a dedicated machine, which would be used as and when required.

18. The applicant has undertaken the formation of catchment ponds at the lower elevations of the site to prevent ongoing deposition of silt material on the public highway. The material removed from these ponds has been screened and, as with the remainder of the extracted material, the sand to be extracted would be taken off site and the stone larger than 10mm retained on site for creating drains.

19. The applicant has created a track, during the interim works, from the sand egress point into the site to the proposed processing area. The processing area would be created at the southern end of the site, with the screener placed such that it is fed at the southern end of the area and a circuit that allows road-going vehicles to be loaded from material produced at the northern end of the screener. The operational concept is to minimise stockpiling on site in order to minimise the land-take. The screen would be placed at an elevation that ensures there is 'pre-existing' screen bunding to provide visual screening and noise attenuation.

20. Reprofilng of the land for the acceptance of soils would involve the removal of vegetation and a number of mature trees. Trees would be surveyed prior to their removal by a qualified ecologist to ensure that they are not in use by nesting birds or as a bat habitat. Land forming activities would then commence at the eastern edge of the site, working progressively westwards and south.

21. With regard to plant and equipment, the applicant would operate a McCloskey S190 screener. On site, there would also be a tracked 360° excavator for the spreading of loose-tipped soils, a front-loading shovel for mineral extraction/screen loading and one articulated dump truck for the transport of excavated mineral to the screener.

22. The applicant has stated that the site would be operated in such a way so that land is prepared for the receipt of soils when the applicant is aware of a soil resource

coming forward. They have also clarified that working may be intermittent but intensive and that this does not change any of the other data including export rates or vehicle movements. The source of the soils is not yet known but the applicant has set out that there would be in a position to control the quality of the soils, to prevent contamination as they would be sourced from sites where A C Buck and Son Ltd are the earthmoving contractor. The receiving area would need to be levelled and drains installed ready for soils to be deposited.

23. Soils or soil-forming material which may have previously been buried on the site and is derived from the screening of the sand would be retained on the site for restoration purposes. It is anticipated that this would only amount to small pockets or locations between where the motocross tracks have been formed. As soon as it has been screened this material would be directly placed for restoration purposes, providing it is in a suitable condition to be handled. No soil storage would be undertaken with all placement taking place at the earliest opportunity.

24. The applicant has set out that when soils are delivered, they would be directly tipped on the area where they are to be permanently spread. It is proposed to place an average of 300mm of soil on the horizontal areas of the new profile and pits of soil of one cubic metre where tree planting is to take place. The applicant has also set out that none of the soil would be spread unless it is in a suitable condition and the weather conditions at the time are dry, and that soils would not be spread on areas where plant is traversing.

The Site

25. The site measures approximately 7.1 hectares in extent, and is roughly rectangular in shape with the long axis running north to south. The site lies approximately 900 metres broadly to the north-east of Stourport-on-Severn and approximately 650 metres broadly to the south-east of Kidderminster. To the west of the site is Wilden Lane, beyond which area a number of industrial units. To the east of the site is Wilden Top Road, beyond which is agricultural land. Immediately to the north of the site is the Summerway Landfill Site waste management operation (County Planning Authority Refs: 19/000003/CM (19/0152/COUN), 19/000004/CM (19/0153/COUN), 19/000005 (19/154/COUN); Minute Reference Nos. 1025, 1023 and 1024, beyond which is Summerfield which includes a commercial area used for making rocket engines. The site lies entirely within the West Midlands Green Belt.

26. The site adjoins the residential area of Wilden, which lies broadly to the south. Nearby residential properties include those located off Wilden Lane, with the nearest residential property lying approximately 5 metres to the south of the site. There are also further residential properties, including those located on The Slad, that are about 20 metres broadly to the south-east of the site. There are other residential properties that lie broadly to the north of the site, and are accessed from Wilden Lane and Hillary Road, and which lie approximately 150 metres from the site.

27. The River Stour is located about 75 metres broadly to the west of the site. The site is located within Flood Zone 1 (low probability of flooding) as identified on the EA's Indicative Flood Risk Map. The proposal is located upon an aquifer - Groundwater Source Protection Zone (Zone 3 – total catchment)

28. Wilden Marsh & Meadows Site of Special Scientific Interest (SSSI) is located immediately to the western side of Wilden Lane and is approximately 20 metres from the site. The River Stour Flood Plain SSSI is located approximately 150 metres to the west of the site. Hartlebury Common & Hilditch Coppice SSSI is approximately 1.2 kilometres broadly to the south of the site. The Devil's Spittleful SSSI is located approximately 2 kilometres broadly to the north-east of the site.

29. The River Stour Local Wildlife Site (LWS) is located approximately 100 metres to the west of the site. Wilden Meadows LWS is located approximately 470 metres broadly north-west of the site beyond which is the Staffordshire and Worcestershire Canal LWS and associated Conservation Area located about 650 metres broadly to the west of the site. Vicarage Farm Heath LWS is located approximately 1.4 kilometres broadly north-west of the site, beyond which is the Burlish Camp LWS located about 1.7 kilometres broadly north-west of the site. The Hartlebury Castle Marsh and Pools LWS is sited about 1.4 kilometres, broadly to the south east of the site.

30. The Grade II Listed Church of All Saints lies approximately 550 metres, broadly to the south of the site. Wilden Viaduct, which is Grade II Listed, lies approximately 830 metres broadly to the south of the site. The Grade II Registered Park and Garden of Hartlebury Castle lies approximately 1.4 kilometres broadly to the south-east of the site.

31. A National Grid (Cadent Gas) High Pressure Gas Pipeline and associated Health and Safety Executive's (HSE's) Major Accident Hazard consultation zone that buffers the gas mains runs through the site, broadly on an east to west basis.

32. The eastern part of the site is an area of identified mineral deposits (sand and gravel) as shown on the adopted County of Hereford and Worcester Minerals Local Plan (1997) Proposal Map. The site lies within the North-west Worcestershire Corridor, as identified in the emerging Minerals Local Plan.

Summary of Issues

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

- Traffic and highways safety;
 - Worcestershire's landbank of sand and gravel reserves;
 - Whether the proposal meets the site selection criteria set out in the adopted County of Hereford and Worcester Minerals Local Plan (Sieve Test / Methodology);
 - Green Belt;
 - Ecology and Biodiversity;
 - Water environment including flooding;
 - Landscape character, visual impact and historic environment;
 - Residential amenity (including noise, dust, lighting, air quality or that of human health);
 - Utilities; and
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- Restoration and Aftercare.

Planning Policy

National Planning Policy Framework (NPPF)

34. The revised National Planning Policy Framework (NPPF) was published on 20 July 2021 and replaces the previous NPPF published in March 2012 and July 2018 and February 2019. A National Model Design Code was also published on 20 July 2021. The government expect the National Model Design Code to be used to inform the production of local design guides, codes and policies.

35. The revised NPPF sets out the government's planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes).

36. The NPPF should be read in conjunction with the Government's planning policy for waste (National Planning Policy for Waste). Annex 1 of the NPPF states that "*The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication*".

37. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- **an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

38. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not

criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

39. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. For decision taking, this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

40. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

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

- Section 2: Achieving sustainable development
 - Section 4: Decision-making
 - Section 6: Building a strong, competitive economy
 - Section 9: Promoting sustainable transport
 - Section 11: Making effective use of land
 - Section 12: Achieving well-designed places
 - Section 13: Protecting Green Belt Land
 - Section 14: Meeting the challenge of climate change, flooding and coastal change
 - Section 15: Conserving and enhancing the natural environment
 - Section 16: Conserving and enhancing the historic environment
 - Section 17: Facilitating the sustainable use of minerals
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National Planning Policy for Waste

42. The National Planning Policy for Waste was published on 16 October 2014 and replaces "Planning Policy Statement 10 (PPS 10): Planning for Sustainable Waste Management" as the national planning policy for waste in England. The document sets out detailed waste planning policies, and should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste, or any successor documents. All local planning authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management.

Chief Planning Officer Letter - Green Belt protection and intentional unauthorised development (31 August 2015)

43. This letter sets out changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt.

The Development Plan

44. The Development Plan is the strategic framework that guides land use planning for the area. In this respect, the current Development Plan that is relevant to this proposal consists of the adopted Worcestershire Waste Core Strategy 2012-2027 (Adopted 2012), The County of Hereford and Worcester Minerals Local Plan (Saved Policies), the Wyre Forest Core Strategy 2006-2026 (Adopted 2010) and the Wyre Forest Site Allocations and Policies Local Plan 2006-2026 (Adopted July 2013).

45. 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.

46. With regard to the weight to be given to existing policies adopted prior to the publication of the revised NPPF, Annex 1 states *"existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

Worcestershire Waste Core Strategy Development Plan Document

47. The Worcestershire Waste Core Strategy policies that are of relevance to the proposal are set out below:

Policy WCS 1: Presumption in favour of sustainable development

Policy WCS 2: Enabling Waste Management Capacity

Policy WCS 5: Landfill and Disposal

Policy WCS 6: Compatible land uses

Policy WCS 8: Site infrastructure and access

Policy WCS 9: Environmental assets

Policy WCS 10: Flood risk and water resources

Policy WCS 11: Sustainable design and operation of facilities

- Policy WCS 12: Local characteristics
- Policy WCS 13: Green Belt
- Policy WCS 14: Amenity
- Policy WCS 15: Social and economic benefits

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

48. The Adopted Minerals Local Plan policies that are of relevance to the proposal are set out below:

- Policy 2: Other Sand and Gravel Deposits

Wyre Forest Core Strategy

49. The Wyre Forest Core Strategy 2006-2026 (Adopted 2010) covers the administrative area of Wyre Forest and provides the strategic direction. The Wyre Forest Core Strategy policies that are of relevance to the proposal are set out below:

- Policy DS01: Development Locations
- Policy DS04: Rural Regeneration
- Policy CP01: Delivering Sustainable Development Standards
- Policy CP02: Water Management
- Policy CP03: Promoting Transport Choice and Accessibility
- Policy CP11: Quality Design and Local Distinctiveness
- Policy CP12: Landscape Character
- Policy CP13: Providing a Green Infrastructure Network
- Policy CP14: Providing Opportunities for Local Biodiversity and Geodiversity

Wyre Forest Site Allocations and Policies Local Plan

50. The Wyre Forest Site Allocations and Policies Local Plan 2006-2026 (Adopted July 2013) covers the administrative area of Wyre Forest and sets out detailed policies to guide new development across the District. It also allocates sites for specific types of development outside of the area covered by the Kidderminster Central Area Action Plan. The Wyre Forest Site Allocations and Policies Local Plan policies that are of relevance to the proposal are set out below:

- Policy SAL.PFSD1 Presumption in Favour of Sustainable Development
 - Policy SAL.CC1 Sustainable Transport Infrastructure
 - Policy SAL.CC2 Parking
 - Policy SAL.CC4 Freight
 - Policy SAL.CC7 Water Management
 - Policy SAL.UP1 Green Belt
 - Policy SAL.UP3 Providing a Green Infrastructure Network
 - Policy SAL.UP5 Providing Opportunities for Safeguarding Local Biodiversity and Geodiversity
 - Policy SAL.UP6 Safeguarding the Historic Environment
 - Policy SAL.UP7 Quality Design and Local Distinctiveness
 - Policy SAL.UP9 Landscaping and Boundary Treatment
 - Policy SAL.UP13 Equestrian Development
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Draft Planning Policy

Emerging Worcestershire Minerals Local Plan

51. The MPA is preparing a new Minerals Local Plan for Worcestershire that 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.

52. The Publication version of the Emerging Worcestershire Minerals Local Plan was submitted to the Secretary of State for Housing, Community and Local Government on 17 December 2019 for independent examination.

53. The Secretary of State has appointed Elizabeth Ord LLB (Hons) LLM MA DipTUS and Beverley Wilders BA (Hons) PgDurp MRTPI as independent Planning Inspectors to assess the 'soundness' and legal compliance of the plan. The Local Plan hearings for the Emerging Worcestershire Minerals Local Plan, were held virtually on Wednesday 11 November to 13 November 2020 and on Friday 18 December 2020 to discuss the principal matters identified by the Inspector.

54. Following the hearing sessions, the MPA prepared "Main Modifications" and "Additional Modifications" to the Minerals Local Plan that was submitted for examination. "Main Modifications" are the changes which are necessary to make the plan sound and/or legally compliant and must be recommended by the Inspector. "Additional Modifications" are minor changes which the MPA may make so long as they do not materially affect the plan's policies. The modifications address representations made on the submitted Minerals Local Plan and issues discussed at the hearing sessions.

55. Consultation on the proposed Main Modifications commenced on 2 August 2021. However, an issue was found in regard to some of the data shown on the draft Policies Map and the consultation period stopped on 10 August. This issue was rectified, and the consultation restarted, running from 31 August to 12 October 2021. Any representations submitted will be considered by the Inspectors

56. The consultation is seeking views on the soundness and legal compliance of proposed "Main Modifications" to the plan, the consequential changes proposed to the policies map, and the accompanying assessments, which included an updated Sustainability Appraisal, Habitats Regulations Assessment and Equality Impact Assessment.

57. The Examination formally remains open until the Inspectors issue their report and it is possible that further hearing sessions could be held if the Inspectors choose to do so. However, the Council has not received any indication from the Planning Inspectors that they intend to do so. In the circumstances the Emerging

Worcestershire Minerals Local Plan cannot yet be declared sound and cannot be adopted. It is not yet, therefore, part of the development plan.

58. The NPPF states in Section 4 (Paragraph 48) that: *“Local planning authorities may give weight to relevant policies in emerging plans according to:*

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

59. Given that all the policies in the Emerging Worcestershire Minerals Local Plan are subject to objection and having regard to the advice in the NPPF, Section 4, it is the view of the Head of Planning and Transport Planning that the following policies in the Minerals Local Plan “Tracked-changes” version (June 2021) should be given limited weight in development management terms in the determination of this application.

60. The Emerging Worcestershire Minerals Local Plan policies that, for the avoidance of doubt, are of relevance to the proposal are set out below:

Policy MLP 1: Spatial Strategy

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

Policy MLP 7: Green Infrastructure

Policy MLP 11: North West Worcestershire Strategic Corridor

Policy MLP 14: Scale of Sand and Gravel Provision

Policy MLP 15: Delivering Steady and Adequate Supply of Sand and Gravel

Policy MLP 26: Efficient Use of Resources

Policy MLP 27: Green Belt

Policy MLP 28: Amenity

Policy MLP 29: Air Quality

Policy MLP 30: Access and Recreation

Policy MLP 31: Biodiversity

Policy MLP 32: Historic Environment

Policy MLP 33: Landscape

Policy MLP 34: Soils

Policy MLP 35: Best and Most Versatile Agricultural Land

Policy MLP 36: Geodiversity

Policy MLP 37: Water Quality and Quantity

Policy MLP 38: Flooding

Policy MLP 39: Transport

Policy MLP 40: Planning Obligations

Policy MLP 41: Safeguarding Locally and Nationally Important Mineral Resources

Emerging Worcestershire Mineral Site Allocations Development Plan Document

61. A Mineral Site Allocations Development Plan Document (DPD) is being produced to support the Minerals Local Plan by allocating “specific sites” and “preferred areas” for mineral extraction (“Specific Sites” are where viable resources are known to exist, landowners are supportive of minerals development and proposals are likely to be acceptable in planning terms. Such sites may also include essential operations associated with mineral extraction. “Preferred Areas” are areas of known resources where planning permission might reasonably be anticipated. Such areas may also include essential operations associated with mineral extraction).

62. Site options proposed by landowners and mineral operators were submitted in response to formal ‘calls for sites’ carried out between 2014 and 2018. Following consultation on a proposed methodology for site allocations in 2018/19, the site options are now being assessed by the MPA. The site, which is the subject of this Report, has not been promoted through the Local Plan process. A range of technical evidence is being gathered to inform a “Preferred Options” draft of the DPD. This draft will show how each site performs against site selection criteria and will set out draft policy wording. Consultation on the “Preferred Options” draft is scheduled to take place in the first half of 2022.

63. Having regard to the advice in the NPPF, Section 4, it is the view of the Head of Planning and Transport Planning that the Emerging Worcestershire Mineral Site Allocations Development Plan Document should be given very limited weight in development management terms in the determination of this application.

Emerging Wyre Forest Local Plan Review

64. The emerging Wyre Forest Local Plan will identify where development sites for homes and businesses will be and the services and infrastructure needed to support them. The new Local Plan will replace the current Adopted Core Strategy, Site Allocations and Policies Local Plan and Kidderminster Central Area Action Plan in order to produce a single Local Plan for Wyre Forest district.

65. The Publication version of the Wyre Forest District Local Plan (2016 - 2036) was submitted to the Secretary of State for Housing, Community and Local Government on 30 April 2020 for independent examination. The Secretary of State has appointed independent Planning Inspector Ms M Travers BA(Hons) DipTP MRTPI to assess the 'soundness' and legal compliance of the plan. The Local Plan hearings commenced on 11 January 2021 and ran until 11 February 2021.

66. After the hearing sessions, the examination remains open until the Inspector completes their report. The examination into the Wyre Forest Local Plan Review has not, therefore, concluded and the Plan has not yet been adopted by the District Council. Having regard to the advice in the NPPF, Section 4, it is the view of the Head of Planning and Transport Planning that the Wyre Forest Local Plan Review should be given limited weight in development management terms in the determination of this application.

67. The Wyre Forest Local Plan Review policies that, for the avoidance of doubt, are of relevance to the proposal are set out below:

Draft Policy 5A – Sustainable Development
Draft Policy 6B – Locating New Development
Draft Policy 6F – Role of the existing villages and rural areas
Draft Policy 7A – Strategic Green Belt Review
Draft Policy 9 – Health and Wellbeing
Draft Policy 11A – Quality Design and Local Distinctiveness
Draft Policy 11B – Historic Environment
Draft Policy 11C – Landscape Character
Draft Policy 11D – Protecting and Enhancing Biodiversity
Draft Policy 11E – Protecting and Enhancing Geodiversity
Draft Policy 13 – Transport and Accessibility in Wyre Forest
Draft Policy 14 – Strategic Green Infrastructure
Draft Policy 15A – Water Conservation and Efficiency
Draft Policy 15B – Sewerage Systems and Water Quality
Draft Policy 15C – Flood Risk Management
Draft Policy 15D – Sustainable Drainage Systems (SuDS)
Draft Policy 16A – Pollution and Land Instability
Draft Policy 16B – Minerals
Draft Policy 16C - Waste
Draft Policy 20B – Open Space
Draft Policy 21B – Rural Employment
Draft Policy 25 – Safeguarding the Green Belt
Draft Policy 26 – Safeguarding the Historic Environment
Draft Policy 27A Quality Design and Local Distinctiveness
Draft Policy 27C – Landscaping and Boundary Treatment
Draft Policy 28C – Equestrian Development
Draft Policy 28D – Agricultural Land Quality

Other Documents

Waste Management Plan for England (2021)

68. The Government, through the Department for Environment, Food & Rural Affairs (Defra), published the latest Waste Management Plan for England in January 2021. The Waste Management Plan for England is required to fulfil the requirements of the Waste (England and Wales) Regulations 2011 and together with its associated documents, local authorities' waste local plans and, combined with the equivalent plans produced by the devolved administrations in Scotland, Wales and Northern Ireland, and Gibraltar, it ensures that waste management plans are in place for the whole of the UK and Gibraltar. It supersedes the previous Waste Management Plan for England (2013).

69. While the Our Waste, Our Resources: A Strategy for England (2018) sets out a vision and a number of policies to move to a more circular economy, such as waste prevention through policies to support reuse, repair and remanufacture activities, the Waste Management Plan for England focuses on waste arisings and their management. It is a high-level, non-site specific document. It provides an analysis of the current waste management situation in England and evaluates how the Plan will support implementation of the objectives and provisions of the Waste (England and Wales) Regulations 2011. It will be supplemented by a Waste Prevention Programme for England, which will set out the Government's plans for preventing products and

materials from becoming waste, including by greater reuse, repair and remanufacture supported by action to ensure better design to enable this to be done more easily.

70. The goal is to maximise the value of the resources that are used, minimise the waste that is created and therefore avoid emissions from the waste sector, which will help contribute towards the Government's target of net zero emissions by 2050. In particular, this means using the "waste hierarchy" (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

Our Waste, Our Resources: A Strategy for England (2018)

71. This Strategy is the first significant government statement in relation to waste management since the 2011 Waste Review and the subsequent Waste Prevention Programme 2013 for England. It builds on this earlier work, but also sets out new approaches to long-standing issues like waste crime, and to challenging problems such as packaging waste and plastic pollution. The Strategy is guided by two overarching objectives:

- To maximise the value of resource use; and
- To minimise waste and its impact on the environment.

72. The Strategy sets five strategic ambitions:

- To work towards all plastic packaging placed on the market being recyclable, reusable or compostable by 2025;
- To work towards eliminating food waste to landfill by 2030;
- To eliminate avoidable plastic waste over the lifetime of the 25 Year Environment Plan;
- To double resource productivity by 2050; and
- To eliminate avoidable waste of all kinds by 2050.

73. It contains eight chapters which address: sustainable production; helping consumers take more considered action; recovering resources and managing waste; tackling waste crime; cutting down on food waste; global Britain: international leadership; research and innovation; and measuring progress: data, monitoring and evaluation. Chapter 3 – 'Resource Recovery and Waste Management' is the most relevant chapter to this proposal.

74. This states that whilst recycling rates in construction have improved since 2000, from 2013 onwards recycling rates have plateaued. The government wishes to drive better quantity and quality in recycling and more investment in domestic recycled materials markets. The government wants to promote UK-based recycling and export less waste to be processed abroad. The government wish to:

- Improve recycling rates by ensuring a consistent set of dry recyclable materials is collected from all households and businesses;
 - Reduce greenhouse gas emissions from landfill by ensuring that every householder and appropriate businesses have a weekly separate food waste collection, subject to consultation;
-

- Improve urban recycling rates, working with business and local authorities;
- Improve working arrangements and performance between local authorities;
- Drive greater efficiency of Energy from Waste (EfW) plants;
- Address information barriers to the use of secondary materials; and
- Encourage waste producers and managers to implement the waste hierarchy in respect to hazardous waste.

The Government Review of Waste Policy England 2011

75. The Government Review of Waste Policy in England 2011 seeks to move towards a green, zero waste economy, where waste is driven up the waste hierarchy. The waste hierarchy gives top priority to waste prevention, followed by preparing for re- use, recycling, other types of recovery (including energy recovery) and last of all disposal.

Consultations

76. **Wyre Forest District Council** have stated that they have carefully considered the proposal which is currently being determined by the MPA and conclude that there are no justifiable grounds on which to object. The proposed development is considered appropriate development in the Green Belt by virtue of the NPPF and the reflective Policy SAL.UP1 Green Belt, in the Wyre Forest Site Allocations and policies Local Plan. The works are considered necessary to stabilise the land and ensure that the current situation of material being continually washed onto the highway is rectified. They confirm that on this this occasion, the District Council has no objection to the development.

77. **Wychavon District Council** (neighbouring District) have stated that they make no comment on this application, noting that the site and the nearby residential properties are within Wyre Forest District. They trust that the potential impact of the development on the network of rural lanes would be addressed by officers.

78. **Stourport-on-Severn Town Council** has noted that the application has been submitted.

79. **Kidderminster Town Council (neighbouring)** - no comments have been received.

80. **Hartlebury Parish Council (neighbouring)** has no objection.

81. **The Environment Agency (EA)** have no objection subject to conditions. The site is located above a Principal Aquifer, Source Protection Zone (SPZ3), Water Framework Directive (WFD) groundwater body, WFD drinking water protected area and is within 60 metres of a surface water course and adjacent to a SSSI. Groundwater beneath the site is potentially shallow. The River Stour floodplain runs to the west (but the site area is within Flood Zone 1 – low probability). The site is considered to be of high sensitivity and the proposed development presents potential pollutant linkages to controlled waters. Therefore, an assessment of potential contamination found in the proposed development site, an assessment of the pollutant linkages that the development could introduce through importation of material, and consideration for the risk posed by surface water drainage and

groundworks would need to be undertaken.

82. The EA have welcomed the additional information provided in the revised Preliminary Hydrogeological Risk Assessment. They note that the Preliminary Hydrogeological Risk Assessment has identified viable Source (i.e. fuel or chemical spillage to ground)/Pathway/Receptor linkages for the Bedrock Aquifer, River Stour and Wilden Marsh SSSI Groundwater Dependent Terrestrial Ecosystem.

83. The Preliminary Hydrogeological Risk Assessment does not address import of potentially contaminative materials (e.g. rogue loads or misclassification of waste) as part of the restoration. They do not accept the suggested vertical hydraulic conductivity of 0.01m/d, given in Section 5.1 Infiltration to the Bedrock Aquifer. Table 7.3.3 of 'The physical properties of major aquifers in England and Wales', Technical Report WD/97/34 R&D Publication 8, actually gives mean horizontal and vertical hydraulic conductivities for the Wildmoor Sandstone of 0.56m/d and 0.2m/d, respectively. On this basis the travel time for infiltration from the ground surface to recharge to the aquifer is estimated at 50 to 150 days rather than the quoted 1,000 to 3,500 days. Similarly, travel time for infiltration from the site to the River Stour will be significantly less than the suggested 10 + years (i.e. approximately 250 to 750 days). Travel time to the Wilden Marsh SSSI could be as little as 150 days. These aspects will need to be revised as part of any HRA submitted in support of the required Bespoke Environmental Permit (EP) application, for the proposed restoration.

84. The EA have stated that the transfer of any waste material on or off site would need to be authorised by them. They encourage the 'twin tracking' of the Permit with the planning application to provide greater certainty but this has not been forthcoming. Notwithstanding the above, they do not object and provide the following comments. The proposed mineral extraction presents a risk to groundwater which is particularly sensitive in this location because the proposed development site is within 100 metres of the River Stour; is within 50 metres of the Wilden Marsh SSSI, and is located upon a principal aquifer.

85. The Hafren Environmental Associates, PHRA (Rev 02), April 2021, submitted in support of this planning application provides some confidence that it would be possible to suitably manage the risks posed to groundwater resources by this development. Section 6 confirms the importance of appropriate control measures being implemented and lists some possible mitigation measures.

86. With regard to pollution prevention, the EA have referenced that developers should incorporate pollution prevention measures to protect ground and surface water.

87. The EA note that the restoration would require an Environmental Permit (EP) under the Environmental Permitting (England & Wales) Regulations 2016 from them. They consider that a Bespoke EP would be necessary which may invoke additional mitigation measures such as engineering on site (compared to an exemption or standard rules permit controls). They state that the applicant is advised to contact the EA for further advice and to discuss the requirements and issues likely to be raised and that the applicant should be aware that there is no guarantee than an EP would

be granted.

88. With regard to biodiversity, notwithstanding the above, they have commented that some further detail on the following points would ensure a more robust biodiversity enhancement plan and restoration to assist decision making. The Wilden and Hartlebury Common SSSIs are both in close vicinity to this site. They advise consulting Natural England. Through reducing silt loss that currently occurs from the site and the creation of a swale to encourage water to infiltrate to groundwater there could be some uplift to current conditions. However, an appropriate plan to manage this and ensure that siltation/pollution (particularly to groundwater) is prevented from negatively impacting the site operation and as part of future management.

89. They note the proposal to return the site to grazing land. Through the process of mineral extraction and the final restoration the current siltation issue from the site is likely to be reduced - the nearby receptor (River Stour) is a salmonid river which is vulnerable to siltation.

90. The proposals provide some commitment to create habitat for invertebrate communities. The current site habitats from open land to scrubby boundaries should not be lost and be retained and replicated where possible during extraction and when restored to equine grazing. They expect the proposals to offer biodiversity enhancement and would encourage 'net gain' opportunities to be provided. The EA suggest that some sort of wetland feature to manage silt as part of the sediment pond(s) or separate to a swale should be considered. Related to this but not their issue, the Planning Statement records that wading birds use the site at present: the proposed use of the restored land to equine pastures does not mitigate for this loss but a wetland area could assist.

91. The EA state that any management plan should address biosecurity. They note Japanese Knotweed and Himalayan Balsam are recorded in the area; a working plan and design for reducing siltation (sediment ponds are discussed in the submission) during the construction phase. Detail on design and management of the site into restoration phase in order to ensure that biodiversity does not decline during the excavations and soon after restoration.

92. Management considerations should also include the boundaries (as a corridor for wildlife and use to slow runoff/wind erosion from site) and the swale/ditch proposed (and a design which optimises hydrological connectivity to groundwater and biodiversity uplift): this is particularly key due to its proximity to the two SSSIs and the River Stour. The infiltration to groundwater and swale is preferable to losing from the site but would need management over time to ensure the effectivity remains.

93. **North Worcestershire Water Management (NWWM)** on behalf of the Lead Local Flood Authority (LLFA) have no objections stating that the site is not at risk of any type of flooding. They have stated that it is well-known that any meaningful rainfall regularly results in sediment rich surface water flood flows being generated on the site, with large amounts of sediment originating from the site getting deposited onto Wilden Lane. This causes a nuisance for drivers and nearby property owners, and it clogs up existing highway drainage infrastructure. They are not aware where

the highway drainage serving this section of Wilden Lane exactly falls out, but is it assumed that a discharge is made into the river Stour, the nearest watercourse. Therefore, a development of this site that will mitigate this discharge is welcomed.

94. They understand from the submitted information that it is the intention to deal with surface water runoff completely within the site boundaries, both during the operational phase and the restoration phase. This as noted in the submitted Flood Risk Assessment (FRA) exceeds the requirements of the non-statutory technical standards for sustainable drainage systems (Defra).

95. In terms of catchment ponds, the proposal includes that the first operation would be the formation of catchment ponds at the lower elevations in the eastern part of the site to prevent ongoing deposition of material on the highway. This would be before any restoration has taken place so the ponds would initially receive runoff from the whole of the site and should be designed to retain runoff until it can be infiltrated.

96. They note that the FRA contains an estimate about the storage volume that these catchment ponds should provide (1,120 cubic metres), making inevitable assumptions regarding the amount of runoff generated by the catchment in a 1 in 30 year event. Based upon an assumed area (750 square metres) infiltration rate (1×10^{-5} m/s) the half empty time would be about 20 hours. Although it would be difficult to better quantify the amount of runoff generated on the existing site, the FRA sets out the infiltration rate of the area where the ponds are to be installed should be measured on site to enable a more accurate design of the catchment ponds to be produced and to ensure the base of the ponds is above the seasonal groundwater table. The ponds should be designed with sufficient freeboard to allow exceedance events to be retained on site. They consider that the design and maintenance of these catchment ponds can be controlled by means of appropriate conditions.

97. With regard to the French drains, they note that during the restoration the majority of the site would be terraced and that a French drain would be constructed at the base of each terrace. The French drains would provide storage for runoff from the terrace and slope above the drain and would allow captured runoff to infiltrate into the ground.

98. The FRA includes calculations of typical dimensions required for these French drains and cautions that the typical batter cross section (submitted also as appendix 2 of the planning statement) does severely understate the dimensions required for these drains. The FRA sets out that based upon assumptions made regarding the size of the terrace served (30 metres), the type of imported soil (clay rich) and the infiltration rate a typical French drain might need to be 1.5 metres deep and 1.35 metres wide to comply with the non-statutory technical standards for sustainable drainage systems (Defra). The dimensions indicated on the 'typical batter cross section' are only 0.6 metres deep and 0.3 metres wide. Therefore, the required French drain dimensions estimated in the FRA are 2.5 times deeper and 4.5 times wider than currently indicated on the 'typical batter cross section'.

99. The FRA advises that the French drain design should be updated to provide a better indication of the required capacity. This capacity should be determined for each

of the terraces specifically (as the required capacity depends on the size of the terrace), using infiltration rates determined on the site. If the imported soil was to be more sandy than the assumptions made (based upon clay rich soil) would be conservative. They consider that the detailed design of these French drains should be conditioned, as well as the submission of a maintenance schedule to ensure the assets would remain effective.

100. It appears to NWWM that the entire restored landform is somewhat fluid and as such it might not be possible to provide the required capacity for each French drain in a discharge of condition application. However, they do consider that the typical batter cross section (submitted also as appendix 2 of the planning statement) should be altered to provide a more realistic indication of the dimensions likely to be required. They also consider that a robust methodology should be proposed for the design of each of the French drains as part of the discharge of condition, so they can be certain that the French drain that would be provided for each terrace would be appropriately sized to comply with the design criteria.

101. With regard to the collection ditch / swale, they comment that the lowest part of the site, where the ponds would be sited during the operational phase, would not be benched. The proposal is that in the final phase of restoration a residual ditch or swale would be installed here to capture runoff between Wilden Lane and the terracing up the slope to the east. This ditch or swale would be a collection ditch only, so there would be no outfall and would drain via infiltration only. The proposal is that the base of this area would be at a lower level than Wilden Lane to prevent runoff onto the roadway and release of surface water across to the River Stour and adjacent SSSIs.

102. The FRA recommends that the restoration design in the western part of the site should be modified to incorporate ponds and/or a swale to capture residual runoff and allow infiltration (subject to determination of infiltration rates and groundwater elevation). It would need to ensure that the base of the ditch/swale is above the seasonal groundwater table. They consider that the detailed design of this collection ditch or swale and maintenance schedule should be conditioned.

103. They consider that given the dispersed, source control nature of the proposed drainage structures and the fact that each drainage structure relies upon infiltration, it is unlikely that the proposed development would adversely impact the nearby water dependent SSSIs. They therefore consider that subject to appropriate conditions that there would be no reason to withhold approval of this application on flood risk grounds.

104. **The Lead Local Authority (LLFA)** have stated that they are content not to comment further in light of NWWM's response.

105. **Severn Trent Water Limited** have stated that as the proposal has minimal impact on the public sewerage system, they have no objections to the proposal and do not require a drainage condition to be applied.

106. **Worcestershire Regulatory Services (WRS) (noise and dust)** have no objections stating that the submitted noise assessment appears satisfactory and

predicts that noise from the proposed site activities would be compliant with the noise guidance on mineral working without the incorporation of any specific noise mitigation measures. Although the assessment predicts a significant increase in noise at Noise Sensitive Receptors (NSRs) 2 & 3, the chosen residual noise level used (46dBA) to calculate this increase is a likely underestimate due to the Covid lockdown at the time and the subsequent reduction in road traffic noise. They recommend that any noisy activities undertaken within 50 metres of the three identified NSRs is only undertaken after 08:00 hours on any day.

107. With regard to dust, they consider that the submitted Planning Statement briefly addresses dust emissions from the proposed site activities (section 3.4.1) and that this is not, therefore, comprehensive enough. The applicant should therefore submit a comprehensive dust management monitoring and mitigation strategy, which WRS have confirmed could be by way of condition.

108. **WRS (contaminated land and air quality)** have no objections stating they have reviewed the planning application for potential contaminated land and air quality issues of which none have been identified. Therefore, WRS have no adverse comments to make with regards to contaminated land and air quality. They note that soil would be imported onto the site as part of the restoration scheme and have therefore recommended the imposition of a suitable condition to ensure that risks from land contamination are minimised.

109. **The British Horse Society** - no comments have been received.

110. **The Canal and River Trust** has stated that the application falls outside the notified area for its application scale so therefore there is no requirement for the MPA to consult them in their capacity as a statutory consultee.

111. **The Campaign for Protection of Rural England (CPRE)** - no comments have been received.

112. **The County Public Rights of Way Officer** has no objection to the proposals subject to the applicant adhering to their obligations to the Public Rights of Way (PRoW). They have commented that the definitive line of PRoWs run over land adjacent to the location of the application. Footpath Stourport-on-Severn SV-590 crosses land on the east side of Wilden Top Road, meeting the road opposite the proposed entrance to the site. Bridleway Stourport-on-Severn SV-539 runs over land to the west of Wilden Lane, meeting the lane a short distance south of the other proposed entrance to the site. They recommend that any PRoW is shown in its correct location on any plans accompanying an application as recommended by the Department for the Environment, Farming and Rural Affairs (Defra) Rights of Way circular (1/09) in order to inform the planning process.

113. **The County Archaeology Officer** has no objection. They have commented that the Heritage Assessment in paragraph 3.4.7 of the Planning Statement is extremely brief, only mentioning the ground disturbance and that the nearest designated assets are some distance and not connected visually or culturally to the site (paragraph 2.3.2). However, despite the lack of a proper heritage statement they concur with the applicant's view that the extensive groundworks within the site would

have removed any surface archaeological deposits. Additionally, a check of the archaeological interventions recorded on the Historic Environment Records (HER) in the vicinity of the site shows that the palaeo-environmental potential is also low. Therefore, they have no further comments to make on this application.

114. **The County Landscape Officer** has no objection. They note that the application appears to be substantively similar to that submitted for Environmental Impact Assessment (EIA) Screening Assessment in February 2020 and, therefore, refers to their comments of 14 February 2020 that sets out their assessment of landscape matters. They note there has been no revision of the restoration concept plan and reiterates that planting linear woodland in discrete blocks, rather than scattered individual trees, would accord more favourably with established woodland and the surrounding Sandstone Estatelands landscape character.

115. In terms of grassland, they defer to ecology colleagues and Wyre Forest District Council's Countryside and Parks Manager for advice on appropriate acid grassland mixes. The restoration programme should, however, aim to maximise opportunities for biodiversity, and therefore they recommend for consideration something like Emorsgate EW1 (Woodland Mixture) for establishment under the new areas of tree planting.

116. In summary, they have no objection to the scheme. However, they recommend that should the MPA be minded to grant permission, the landscaping scheme should be secured through a suitably worded condition. They refer to the need to submit a Landscape and Ecological Management Plan (LEMP) and schedule of landscape maintenance.

117. **The Herefordshire and Worcestershire Earth Heritage Trust** note that while the proposal would involve the exploitation of sand and gravel, the quantities are relatively small. A series of minor exposures would be created in the course of the works. These could be of interest, especially in the river terrace deposits in the east of the area. This interest includes both the structure, content and age of the gravel deposits and the possible occurrence of fossils. The potential interest is probably not sufficient to justify formal requests for access. However, they request that the developer exercise vigilance during the extraction process, alerting all operatives to the possibility of fossil finds, and that they co-operate in investigating and recovering any finds. Specifically, they should look out for:

- a) large mammal and other remains among the sand and gravel; and
- b) layers of darker material that might contain a variety of smaller plant and animal remains.

118. Similarly, the change of landform is unfortunate. The downcutting of the river into the Wildmoor Sandstone is currently evident from the steep bank, and this feature would effectively be lost or at least reduced in prominence. The degree of change, however, is not thought to justify a formal objection to the works. In conclusion, they are content to support this development, while requesting that the developer be alerted to the possibility of fossil finds and be required to co-operate in the investigation of such finds should they arise. In addition, any opportunities for geologists to inspect the exposed sand and gravel would be appreciated.

119. **The County Highways Officer** objects to the proposal. They state that Worcestershire County Council acting in its role as the Highway Authority has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Transport Planning and Development Management Team Leader on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure) (England) Order, 2015 recommends that this application is refused.

120. The Highway Authority has undertaken a review of the Transport Assessment (TA) dated August 2020 as prepared by The Transportation Consultancy Ltd (TTC) and related documents accompanying the planning application submission. The Highway Authority has also been party to subsequent discussions with the applicant team in seeking to address highway concerns.

121. The site is located to the north-east of Stourport-on-Severn, approximately three kilometres from the centre of Stourport. The site is a former Motocross site in Wilden and is bordered to the north by Hillary Road, to the east by Wilden Top Road, to the west by Wilden Lane and open agricultural fields and residential dwellings beyond to the south.

122. The development proposals seek to convert the existing motocross site into a landform suitable for pasture. To achieve this, the site requires existing sand to be exported from the site and replaced with clean topsoil, which would in turn be appropriately graded.

123. They note that the proposals have largely remained unchanged since pre-application comments were made by the Highway Authority, although the intention to work the site in phases is different to the original proposals. At the time when pre-application advice was sought, the applicant intended that the exportation and importation of materials would occur separately under two distinct phases running one after each other over a total timeframe of 6 years and 6 months. Now with a planning application submitted, the applicant has established that these construction activities can and would operate concurrently. The exportation of material is expected to take 3 years to complete and the importation is expected to take 3 years and 6 months, with both activities expected to start at the same time. This is a 3 year reduction to works when compared to the two phase approach.

124. They note that internal site working would occur between 07:00 -19:00 hours on weekdays, although material importation and exportation affecting the off-site highway, would occur between 08:00 and 18:00 hours. On a Saturday, material movements off-site would occur between 08:00 and 13:00 hours and no material movements are proposed for Sundays.

125. In terms of the internal site design, they note that the TA states that electric vehicle parking, cycle parking, staff welfare facilities would be provided on site, and given the nature of the site, car parking would include sufficient space for disabled persons. This is accepted, and planning conditions would be included related to these points should planning permission be granted.

126. In terms of HGV access, space within the site is unrestricted and therefore HGVs would be afforded ample space when removing/delivering material to site, allowing them to enter and exit the site in a forward gear. Employees on site would also ensure the gates at the access junctions are open in advance of 08:00 hours so that HGVs would not need to wait on the local highway network to enter the site. The County Highways Officer considers that this is acceptable.

127. With regard to vehicle trip generation, they note that the TA dated August 2020 does not include the correct details regarding vehicle numbers related to the import / export of material. These have since been revised and included in an updated Planning Statement dated November 2020. The Highway Authority now understands that the proposal includes 300,000 tonnes of material to be exported from the site using the Wilden Lane access, which generates approximately 35 two-way vehicle movements per day, including 20 tonne tipper HGVs.

128. As detailed in paragraph 3.2.3 of the Planning Statement, Wilden Top Road will be solely used for the import of material to the site, limited to 21,000 cubic metres of material. This equates to 4 two-way vehicle movements per day. This is a significant reduction in vehicle movements compared to the 27 two-way vehicle movements per day as stated in the TA. In addition to the above, there would be limited movements related to the drop off and collection of plant vehicles and a limited number of staff movements.

129. The site currently benefits from two points of access onto the public highway, one on Wilden Lane and the second on Wilden Top Road. The latter access was used by the site for access to and from the former motocross site. The exportation and importation of material would be undertaken via two different accesses, with exportation utilising the Wilden Lane access and importation using the Wilden Top Road access. The site requires two points of access as road-going vehicles are not be able to access the upper (east) parts of the site from the lower (west) parts, due to the site's gradient and without causing significant damage to the sites surface. The Wilden Lane access is approximately 7.1 metres wide and is gated and surfaced with concrete at the back of the existing footway for circa 5 metres and then in loose gravel for the internal roads. The Wilden Top Road access is approximately 6 metres wide and gated.

130. HGVs would be required to travel via Wilden Top Road and Hillary Road to access Wilden Lane to and from the site. Whilst vehicle numbers are limited at the Wilden Top Road access, the Highway Authority requested vehicle tracking information to show that there is an ability for two HGVs to pass on Hillary Road and close to the junction with Wilden Top Road. There are sections of the carriageway that are limited in width and where two HGV's passing is likely to prove difficult.

131. Hillary Road already serves a business (Talbots) that generates a significant number of HGVs, and the potential for two HGVs to meet in opposing directions along the route is possible. Hillary Road is a relatively narrow carriageway and the locations for two HGVs to pass are limited. The applicant team refer to a single informal passing bay being provided along the route, and it would also be possible to pass in potentially two other locations, but towards the east of the route it is not believed that passing is possible.

132. Hillary Road does not include any provision for pedestrians. A fatal collision was known to have occurred on Hillary Road at its western end in 2015, when a car collided with a pedestrian. No HGVs were involved with this incident.

133. The Highway Authority requested that tracking be provided for two HGVs using Hillary Road, although this has not been provided. The applicant team have instead provided photographic evidence to show widened sections of the carriageway, but it is still unknown if this would be suitable for two HGVs to pass. It is believed possible that an HGV would have to reverse a sizable distance if a further HGV was travelling in the opposite direction. This would pose a safety concern for the reversing vehicle and other vehicles using the same carriageway.

134. If suitable passing locations are not provided, then there is likely to be a requirement for one or more passing bays to be created, subject to land ownership. This information was not provided.

135. Access to and from Wilden Top Road appears to be achievable from the drawings submitted, although this would require changes to the hedge. They consider that this would need to form a planning condition.

136. With regard to Wilden Lane, the applicants' transport consultants have currently undertaken speed surveys on Wilden Lane positioned close to the existing site access point. These surveys are required to determine access visibility, based on 85th percentile speeds in accordance with Design Manual for Roads and Bridges and Manual for Streets (Department for Transport, and Communities and Local Government) and Manual for Streets 2 (The Chartered Institution of Highways & Transportation), as referenced in the WCC Streetscape Design Guide (2020).

137. The 85th percentile speeds recorded on Wilden Lane identify vehicles travelling at 43.8 mph southbound and 42.7 mph northbound. The actual speed limit of the road is 30 mph, although the access is positioned close to where the speed limit changes to a national speed limit (60 mph) and likely why higher speeds are recorded. As the speeds are recorded above 37.3 mph, Manual for Streets, applicable to lower speed residential roads is not suitable for the site, and instead Manual for Streets 2 and the Design Manual for Roads and Bridges are used. The '85th percentile' speed is a speed at which 85% of traffic will be travelling at, or below, along a street or road (under free flow conditions). It also means that 15% of traffic will be travelling faster than this speed. The guidance requires 85th percentile speeds to be used for design purposes. This is a standard requirement of all sites considering access visibility.

138. Based on the speeds surveyed, there is a requirement for the site to achieve a 'Y' distance visibility splay of approximately 117 metres (based on 43.8 mph) and 112 metres (based on 42.7 mph) at a 'X' (set back) distance of 2.4 metres. Visibility splays seek to ensure that there is adequate inter-visibility to address highway safety.

139. The TA clearly shows that the site can only achieve a visibility splay of 81 metres to the centre of the carriageway (to the south). This is already a shortfall on the visibility requirements, although the Highway Authority cannot accept visibility

measures to the centre of the carriageway, and Manual for Streets shows this should be measured to the edge of the carriageway. Whilst not measured by the applicant, this would likely reduce the visibility splay achievable to approximately 70– 75 metres. The visibility achieved at the Wilden Lane access would therefore be in the order of 30-40 metres short of what is required.

140. The proposals are intensifying the use of the Wilden Road access and the vehicles using it will be sizable HGVs (20 tonnes), often full of material. These vehicles would not be able to move off from the access junction at speed and therefore good visibility of oncoming traffic is essential. This section of Wilden Lane is sensitively illuminated because of the SSSI, and the Highway Authority Road Safety team have raised concerns with an access unable to meet full visibility requirements in this location and note that the road also has a history of overtaking incidents.

141. The Highway Authority discussed the access proposals in this location in detail with the applicant team and suggested that further speed surveys and consideration of alternative access proposals / options be presented. This information has not been forthcoming.

142. The Highway Authority is aware that new Automatic Traffic Count (ATC) have been collected by the applicant team, although TTC has not been commissioned to submit this data to the Highway Authority, or to provide any additional information to address the outstanding points raised by the Highway Authority.

143. It is the Highway Authorities view that the intensification of the Wilden Lane access knowingly to be used by HGV traffic, which is unable to achieve visibility requirements by some distance, in accordance with design standards poses a severe / significant risk to the local highway network. In accordance with Paragraph 111 of the NPPF states *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.

144. In conclusion, the Highway Authority has undertaken a robust assessment of the planning application. The Highway Authority is fully accepting of the principle of the proposals and would welcome the site’s restoration to agriculture. Unfortunately access visibility on Wilden Lane cannot be met, and given the intensification in use, the size and weight of vehicles anticipated to use the access and the absence of lighting, the access junction would pose a risk to network safety. Concerns are also raised on the ability for HGVs to pass along sections of Wilden Top Road and Hillary Road. Insufficient information has been presented to the Highway Authority to show this matter would not be an issue for the operation / safety of the local highway network. Based on the analysis of the information submitted and consultation responses from third parties, the Highway Authority recommends that this application is refused.

145. **The Health and Safety Executive (HSE)** have referred the MPA to the advice that has already been obtained by the MPA through the use of the Planning Advice Web App. This states that the HSE is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/pipelines. This development is within at least one Consultation Distance, has been considered using HSE’s planning advice web app and based on the details input by the MPA, HSE’s Advice is that they

Do Not Advise Against. Consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

146. **Herefordshire and Worcestershire Fire and Rescue Service** no comments have been received.

147. **Cadent** comment that a gas pipeline would be affected by this proposal, which is known as 'WM1217 Hossil Lane to Kidderminster'. It operates at up to 19 bar pressure and is classed as a MAHP (Major Accident Hazard Pipeline) by the HSE. Cadent have requested that a number of conditions are applied as without these conditions Cadent would formally object to the proposals. These conditions aim to protect the pipelines' integrity, their easement and ability to work on the pipeline, and provide Cadent confidence that the proposals would not adversely affect the stability of the land and therefore risk damaging the pipeline. Cadent would work with the landowner with an aim to achieve their proposal which is favourable over its current state.

148. **Natural England** has no objection subject to the recommendations of the Preliminary Ecological Appraisal (dated 26 January 2021) and Ecological Mitigation and Management Plan (dated 24 January 2021) being adhered to and appropriate mitigation outlined below being secured. They consider that without appropriate mitigation the application would damage or destroy the interest features for which Wilden Marsh and Meadows and River Stour Flood Plain SSSIs have been notified.

149. In order to mitigate these adverse effects and make the development acceptable, mitigation measures are required, which include requiring a Construction Environmental Plan (CEMP) for biodiversity to describe how construction works would avoid damage to the SSSI, and a scheme for the provision of surface water drainage works to ensure no water quality and quantity implications to the nearby designated sites. They advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Natural England have also set out further advice on designated sites/landscapes and advice on other natural environment issues. They have set out that guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites and recommend its use in the design and construction of development, including any planning conditions.

150. **The Open Space Society** no comments have been received.

151. **The Ramblers Association** have commented that based on examination of the plans via the website and the Worcestershire County Council's Definitive Map, there does not seem to be any impact on the local PRoW network. They endorse comments from the County's PRoW Officer regarding the need to show the route of the PRoWs on the plans submitted, and perhaps to mention the impact or lack thereof in the planning application.

152. **West Mercia Police** have no objection.

153. **Western Power Distribution** (On-line Comments) show that their apparatus (11kV overhead power line) is located adjacent to the site. The applicant must comply

with the requirements of HSE's guidance: GS6, 'Avoidance of Danger from Overhead Electric Lines'. They state that the use of mechanical excavators in the vicinity of their apparatus should be kept to a minimum. Any excavations in the vicinity of their apparatus should be carried out in accordance with the document titled: HSE' guidance: HS(G)47, 'Avoiding Danger from Underground Services'. The applicant should contact Western Power Distribution should any diversions be required.

154. **Worcestershire Wildlife Trust** have no objections, noting the contents of the various associated documents and in particular the findings and recommendations set out in the Preliminary Ecological Appraisal (PEA). They note that the site falls close to the Wilden Marsh and Meadows SSSI and other ecological receptors. They do not have an in-principle objection to this application but consider that there are a number of ecological features that need to be taken into account in its determination. For the most part these are detailed in the PEA and it seems likely that the helpful recommendations for mitigation can be implemented effectively under appropriately-worded conditions. However, they note that there are several references to special sandy habitats that support a range of scarcer flora and burrowing invertebrates including solitary bees and wasps.

155. They are pleased to support recommendations for retention and enhancement of acid flora and restoration of some features suitable for the invertebrates and consider that these could be refined and improved following more detailed invertebrate surveys. Sandy habitats of this sort can be extremely valuable for communities of invertebrate species (as evidenced by nearby SSSIs at Hartlebury and The Devil's Spittleful) and they strongly recommend that the proposal is discussed in detail with the County Ecologist to confirm whether further invertebrate survey work is required prior to determination. This would be in line with legal obligations and planning policy and should include consideration of mitigation and compensation for any habitat losses, and biodiversity net gain potential associated with these species. They have recommended imposing a number of conditions relating to a CEMP, (Biodiversity), SuDS and a LEMP.

156. **The County Ecologist** has no objections and states that the proposals to retain and enhance patches of acid grassland and sandy banks for invertebrates and the protection of Wilden Marsh SSSI from silty run-off are very much welcomed. They have reviewed the amended Preliminary Ecological Appraisal (PEA) (dated 26 January 2021) and is very pleased that the further consideration given to notable species, particularly invertebrates, is very comprehensive and provides thorough reassurance that they can discharge their duty to consider these species within the planning process. They have no objection to the proposed works, subject to the imposition of conditions relating to a CEMP (Biodiversity) and a LEMP.

157. They comment that the Ecological Mitigation and Management Plan (EMMP), submitted with the amended PEA goes some way to addressing both recommended conditions, and 'EMMP' is a more suitable title for this document than either CEMP or LEMP as they had suggested. Further detail would be needed to discharge either condition, as itemised within the recommended wording for each. One area needing clarification is how the retained and created acid grassland would be protected from

over-grazing by horses – horse grazing can be beneficial if well-managed, but that commitment must be set out within the management plan.

Other Representations

158. The application has been advertised on site, in the press and by neighbour notification. To date, two letters of representation which includes video evidence, objecting to the proposal have been received. These letters of representation were made available to Members of the Planning and Regulatory Committee upon request. The main comments in this letter of representation relating to the proposal are summarised below:

Objection

Access to the site

- Principal objection is that Hillary Road and Wilden Top Road are not suitable for the level of additional HGV traffic and that both roads are used by Talbot Transport, and large buses which regularly cause congestion on the road and result in the traffic reversing down the narrow lanes to a passing place which are unsuitable for two large vehicles to pass. Videos have been provided, which they state show the level of traffic on Hillary Road and Wilden Top Road during lockdown.
- Queries the validity of traffic survey, including in terms of the assessment being undertaken at a period when the country was coming out of a national lockdown (due to COVID-19) and that businesses were operating at a reduced capacity or were closed, such as two local garden centres (Blue Cedars and De Beers) which were shut as well as 'Logs West Mids' which usually leads to significant traffic flow via Hillary Road and Wilden Top. Furthermore, many people who use these roads for commuting would have been at home. The assessment also does not take account of school traffic.
- Proposal would add a further 70 HGVs, which will be approximately 1 every 10 minutes between the hours of 08:00 – 18:00 hours and unsustainable on the proposed roads.
- HGVs that wished to utilise access onto Wilden Top Road would cause conflicts with pedestrians wishing to utilise the public footpath directly opposite access. The road is also regularly used by horses for hacking and dog walkers and the increased traffic along Wilden Top Road would make such activities impossible.
- Wilden Top Road has a weight restriction of 7.5 tonnes and the type of activity proposed is over and above this weight limit and as such, access via Wilden Top Road should not be approved.
- No objection is raised to the access directly off Wilden Lane and they consider that this access is more than adequate to meet the site's access requirements.

Working Hours

- Consider that proposed working hours are extremely long (07:00 – 19:00 hours) for the nature of this application, which would bring about widespread pollution in the form of noise and light.
 - Given that the land is designated green belt, proposal would limit the quiet enjoyment of neighbouring property owners particularly from the constant screen,
-

reversing alarm and general vehicular movement between the hours of 07:00 – 19:00 hours.

- Further to this, the proposed importing and exporting of soil and sand between the hours of 08:00 – 18:00 hours would cause issues with school runs and the already congested traffic route that is Hillary Road and Wilden Top Road.
- Given the proposed long hours of operation on weekdays and the minimal machinery that will be required on site, considers there should be adequate time to complete routine maintenance without the requirement to operate on Sundays.

Pollution

- Importing and exporting of soil and sand would undoubtedly result in a huge increase in dust, noise and light.
- Particularly during the winter months, the lights for operating between 07:00 – 19:00 hours would be of great detriment to the surrounding area which is Green Belt.
- Consideration should be given to better screening of the site to reduce the impact on neighbouring property owners.
- The application is not consistent in terms of proposed regularity sweeping of roads – refers to weekly and as required but also to month and as required. Consider it should be 'weekly and as required at bare minimum.
- Proposal in terms of exporting sand and importing of soil would cause many fine particles to be deposited on the road.

The Head of Planning and Transport Planning Comments

159. 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.

Traffic and highways safety

160. Paragraph 111 of the NPPF states "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".

161. As set out earlier under the 'Consultations' heading in this report, concerns have been expressed through two letters of representation about traffic and highways safety, including the effect on traffic flow on Hillary Road and Wilden Top Road, the validity of the Transport Assessment and the potential for conflict with other users, including pedestrians and horse riders.

162. There is a recently constructed access from the site onto Wilden Lane. The access point is onto a section of Wilden Lane which is subject to the national speed limited although the speed limit changes to 30 mph just to the south of the access.

163. There is also a recently constructed access from the site onto Wilden Top Road, which is a single lane carriageway in part, albeit that there are some informal passing bays that appear to be used to manage two-way flows of traffic.

164. As set out earlier in this report under the 'Proposal' heading, the export of sand would involve approximately 35 vehicle movements (17.5 x two-way) on average per day. The applicant has set out the all vehicles arriving and leaving the site in connection with the export of sand would access the site, arriving from the north, at the recently improved access in the south west corner of the site, adjacent to Wilden Lane . The applicant has set out that all vehicles departing via this location would turn right (north) to avoid residential properties in Wilden.

165. The proposed quantity of soil to be imported has reduced since the Transport Assessment was undertaken and this has now reduced to 21,000 cubic meters. Using the methodology expressed in the Transport Assessment, the applicant has stated that this would result in four movements or two deliveries on average per day. In order to avoid conflict between vehicles, deliveries of soil would arrive at the site and depart via the upgraded access road on Wilden Top Road. The applicant has set out that road-going vehicles would not be able to achieve traction to take soils from the lower access point up the existing sloping sand and that road-going vehicles would cause significant damage to the surface due to the gradient.

166. With regard to traffic flows and speeds, traffic data was captured along Wilden Lane and Wilden Top Road using Automatic Traffic Counters (ATC), which were both laid between Wednesday 29 July 2020 and Tuesday 4 August 2020. The applicant acknowledges, at paragraph 2.4 of the submitted Transport Assessment, that data captured during this time, particularly volumetric, is unlikely to be fully representative. However, they state that evidence from ongoing traffic surveys conducted prior to, and during lock down, indicate that by the end of July/early August 2020, traffic volumes were close to returning to normal. As a result, they consider that it is reasonable to presume that the data captured is at least a reasonable proxy from which to inform an assessment of the anticipated impacts of the proposed development.

167. The applicant has set out that they would operate a road sweeper on a weekly and 'as required' basis on Wilden Lane during the periods when the site is open.

168. Wychavon District Council (neighbouring District Council) has stated that they make no comment on this application, noting that the site and the nearby residential properties are within Wyre Forest District. They trust that the potential impact of the development on the network of rural lanes would be addressed by officers.

169. The County Highways Officer states that Worcestershire County Council acting in its role as the Highway Authority has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals and recommends that this application is refused.

170. The Highway Authority has undertaken a review of the Transport Assessment (TA) dated August 2020 as prepared by The Transportation Consultancy Ltd. (TTC) and related documents accompanying the planning application submission. The Highway Authority has also been party to subsequent discussions with the applicant team in seeking to address highway concerns.

171. The site is located to the north-east of Stourport-on-Severn, approximately three

kilometres from the centre of Stourport. The site is a former Motocross site in Wilden and is bordered to the north by Hillary Road, to the east by Wilden Top Road, to the west by Wilden Lane and open agricultural fields and residential dwellings beyond to the south.

172. The development proposals seek to convert the existing motocross site into a landform suitable for pasture. To achieve this, the site requires existing sand to be exported from the site and replaced with clean topsoil, which would in turn be appropriately graded.

173. They note that the proposals have largely remained unchanged since pre-application comments were made by the Highway Authority, although the intention to work the site in phases is different to the original proposals. At the time when pre-application advice was sought, the applicant intended that the exportation and importation of materials would occur separately under two distinct phases running one after each other over a total timeframe of 6 years and 6 months. Now with a planning application submitted, the applicant has established that these construction activities can and would operate concurrently. The exportation of material is expected to take 3 years to complete and the importation is expected to take 3 years and 6 months, with both activities expected to start at the same time. This is a 3 year reduction to works when compared to the two phase approach.

174. They note that internal site working would occur between 07:00 -19:00 hours on weekdays, although material importation and exportation affecting the off-site highway, would occur between 08:00 and 18:00 hours. On a Saturday, material movements off-site would occur between 08:00 and 13:00 hours and no material movements are proposed for Sundays.

175. In terms of the internal site design, they note that the TA states that electric vehicle parking, cycle parking, staff welfare facilities would be provided on site, and given the nature of the site, car parking would include sufficient space for disabled persons. This is accepted, and planning conditions would be included related to these points should planning permission be granted.

176. In terms of HGV access, space within the site is unrestricted and therefore HGVs would be afforded ample space when removing/delivering material to site, allowing them to enter and exit the site in a forward gear. Employees on site would also ensure the gates at the access junctions are open in advance of 08:00 hours so that HGVs would not need to wait on the local highway network to enter the site. The County Highways Officer considers that this is acceptable.

177. With regard to vehicle trip generation, they note that the TA dated August 2020 does not include the correct details regarding vehicle numbers related to the import / export of material. These have since been revised and included in an updated Planning Statement dated November 2020. The Highway Authority now understands the proposals includes 300,000 tonnes of material to be exported from the site using the Wilden Lane access, which generates approximately 35 two-way vehicle movements per day, including 20 tonne tipper HGVs.

178. As detailed in paragraph 3.2.3 of the Planning Statement, Wilden Top Road will

be solely used for the import of material to the site, limited to 21,000 cubic metres of material. This equates to 4 two-way vehicle movements per day. This is a significant reduction in vehicle movements compared to the 27 two-way vehicle movements per day as stated in the TA. In addition to the above, there would be limited movements related to the drop off and collection of plant vehicles and a limited number of staff movements.

179. The site currently benefits from two points of access onto the public highway, one on Wilden Lane and the second on Wilden Top Road. The latter access was used by the site for access to and from the former motocross site. The exportation and importation of material would be undertaken via two different accesses, with exportation utilising the Wilden Lane access and importation using the Wilden Top Road access. The site requires two points of access as road-going vehicles are not be able to access the upper (east) parts of the site from the lower (west) parts, due to the site's gradient and without causing significant damage to the sites surface. The Wilden Lane access is approximately 7.1 metres wide and is gated and surfaced with concrete at the back of the existing footway for circa 5 metres and then in loose gravel for the internal roads. The Wilden Top Road access is approximately 6 metres wide and gated.

180. HGVs would be required to travel via Wilden Top Road and Hillary Road to access Wilden Lane to and from the site. Whilst vehicle numbers are limited at the Wilden Top Road access, the Highway Authority requested vehicle tracking information to show that there is an ability for two HGVs to pass on Hillary Road and close to the junction with Wilden Top Road. There are sections of the carriageway that are limited in width and where two HGV's passing is likely to prove difficult.

181. Hillary Road already serves a business (Talbots) that generates a significant number of HGVs, and the potential for two HGVs to meet in opposing directions along the route is possible. As part of the County Planning Authority Refs: 19/00003/CM, 19/00004/CM and 19/00005/CM relating to the Summerway Landfill Site waste management operation (Minute Nos. 1023, 1024 and 1025 refers), where the applicant was DE Talbot Transport, the applicant provided details of HGV movements. The Committee Reports, relating to those applications, set out that the site would generate approximately 74 HGV movements per day (about 37 HGVs entering the site and about 37 HGVs leaving the site per day).

182. Hillary Road is a relatively narrow carriageway and the locations for two HGVs to pass are limited. The applicant team, in reference to the current application (MPA Ref: 20/000042/CM), refer to a single informal passing bay being provided along the route, and that it would also be possible to pass in potentially two other locations. Towards the east of the route it is not believed that passing is possible.

183. Hillary Road does not include any provision for pedestrians. A fatal collision was known to have occurred on Hillary Road at its western end in 2015, when a car collided with a pedestrian. No HGVs were involved with this incident.

184. The Highway Authority requested that tracking be provided for two HGVs using Hillary Road, although this has not been provided. The applicant team have instead provided photographic evidence to show widened sections of the carriageway, but it

is still unknown if this would be suitable for two HGVs to pass. It is believed possible that an HGV would have to reverse a sizable distance if a further HGV was travelling in the opposite direction. This would pose a safety concern for the reversing vehicle and other vehicles using the same carriageway.

185. If suitable passing locations are not provided, then there is likely to be a requirement for one or more passing bays to be created, subject to land ownership. This information was not provided.

186. Access to and from Wilden Top Road appears to be achievable from the drawings submitted, although this would require changes to the hedge. They consider that this would need to form a planning condition.

187. With regard to Wilden Lane, the applicants' transport consultants undertook speed surveys on Wilden Lane positioned close to the existing site access point. These surveys were required to determine access visibility, based on 85th percentile speeds in accordance with Manual for Streets and the WCC Streetscape Design Guide. The 85th percentile speeds recorded on Wilden Lane identify vehicles travelling at 43.8 mph southbound and 42.7 mph northbound. The actual speed limit of the road is 30 mph, although the access is positioned close to where the speed limit changes to a national speed limit (60 mph) and likely why higher speeds are recorded. As the speeds are above 37.3 mph, Manual for Streets 2 and the Design Manual for Roads and Bridges are used. The '85th percentile' speed is a speed at which 85% of traffic will be travelling at, or below, along a street or road (under free flow conditions). It also means that 15% of traffic will be travelling faster than this speed. The guidance requires 85th percentile speeds to be used for design purposes. This is a standard requirement of all sites considering access visibility.

188. Based on the speeds surveyed, there is a requirement for the site to achieve a 'Y' distance visibility splay of approximately 117 metres (based on 43.8 mph) and 112 metres (based on 42.7 mph) at a 'X' (set back) distance of 2.4 metres. The TA clearly shows that the site can only achieve a visibility splay of 81 metres to the centre of the carriageway (to the south). This is already a shortfall on the visibility requirements, although the Highway Authority cannot accept visibility measures to the centre of the carriageway, and Manual for Streets shows this should be measured to the edge of the carriageway. Whilst not measured by the applicant, this would likely reduce the visibility splay achievable to approximately 70–75 metres. The visibility achieved at the Wilden Lane access would therefore be in the order of 30-40 metres short of what is required.

189. The proposals are intensifying the use of the Wilden Road access and the vehicles using it will be sizable HGVs (20 tonnes), often full of material. These vehicles would not be able to move off from the access junction at speed and therefore good visibility of oncoming traffic is essential. This section of Wilden Lane is sensitively illuminated because of the SSSI, and the Highway Authority Road Safety team have raised concerns with an access unable to meet full visibility requirements in this location and note that the road also has a history of overtaking incidents.

190. The Highway Authority discussed the access proposals in this location in detail with the applicant team and suggested that further speed surveys and consideration

of alternative access proposals / options be presented. This information has not been forthcoming.

191. The Highway Authority is aware that new Automatic Traffic Count (ATC) have been collected by the applicant team, although TTC has not been commissioned to submit this data to the Highway Authority, or to provide any additional information to address the outstanding points raised by the Highway Authority.

192. It is the Highway Authorities view that the intensification of the Wilden Lane access knowingly to be used by HGV traffic, which is unable to achieve visibility requirements by some distance, in accordance with design standards poses a severe / significant risk to the local highway network. It is noted that paragraph 111 of the NPPF states *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*.

193. In conclusion, the Highway Authority has undertaken a robust assessment of the planning application. The Highway Authority is fully accepting of the principle of the proposals and would welcome the site's restoration to agriculture. Unfortunately access visibility on Wilden Lane cannot be met, and given the intensification in use, the size and weight of vehicles anticipated to use the access and the absence of lighting, the access junction would pose a risk to network safety. Concerns are also raised on the ability for HGVs to pass along sections of Wilden Top Road and Hillary Road. Insufficient information has been presented to the Highway Authority to show this matter would not be an issue for the operation / safety of the local highway network. Based on the analysis of the information submitted and consultation responses from third parties, the Highway Authority recommends that this application is refused.

194. Paragraph 55 of the NPPF indicates that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Access to and from Wilden Top Road appears to be achievable subject to the imposition of a suitable condition. It has not been demonstrated that if two HGVs were to meet in opposing directions on Wilden Top Road or Hillary Road, that this would not have an unacceptable impact on the operation of the local highway network. The Head of Planning and Transport notes the objection from the County Highways Officer that visibility in accordance with standards could not be provided to the south of the site's access on Wilden Lane. It is considered that this could not be adequately addressed by a planning condition. The proposal is, therefore, considered to be harmful to highway safety contrary to Policy WCS 8 of the Worcestershire Waste Core Strategy, Policy CP03 of the Wyre Forest Core Strategy, Policy SAL.CC1 of the Wyre Forest Site Allocations and Policies Local Plan, and paragraph 111 of the NPPF.

Worcestershire's landbank of sand and gravel reserves

195. National planning policy for minerals is contained within Section 17 'Facilitating the sustainable use of minerals' of the NPPF. Paragraph 209 of the NPPF states *"it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite*

natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation".

196. Paragraph 213 f) of the NPPF states "*minerals planning authorities should plan for a steady and adequate supply of aggregates by...maintaining landbanks of at least 7 years for sand and gravel...whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised*". 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.

197. The LAA (published June 2020) covers the period up to 31 December 2017, and is in accordance with the NPPF (paragraph 213) as it calculates annual provision requirements on a rolling average of 10 years' sale data in Worcestershire and other relevant local information. In 2017, sales of sand and gravel in Worcestershire were 0.455 million tonnes. The 10-year average of sales from 2008 to 2017 including combined data with Herefordshire Council for 2012 and 2013 is 0.572 million tonnes.

198. On 31 December 2017, the total permitted sand and gravel reserves for Worcestershire was about 3.465 million tonnes, which is equivalent to a landbank of approximately 6.06 years. Assuming annual sales figures of 0.572 million tonnes, based on the rolling 10 years' average continued, then the landbank of permitted reserves at 31 December 2020 would be approximately 1.749 million tonnes of sand and gravel, equating to about 3.06 years. Since 31 December 2020, the MPA granted planning permission on 25 March 2021 (under MPA Ref: 18/000036/CM, Minute No. 1069 refers) for a proposed sand quarry on land adjacent to former Chadwich Lane Quarry, Chadwich Lane, Bromsgrove, Worcestershire. Based on the proposed extraction of some 1.35 million tonnes per year, this has increased the landbank by approximately 2.36 years, equating to a landbank of approximately 5.42 years in total, which is still below the minimum landbank for at least 7 years for sand and gravel.

199. Should this planning application be granted permission, it would increase the landbank by approximately 0.52 years, equating to a landbank of approximately 5.94 years in total, which is still below the minimum landbank for at least 7 years for sand and gravel. It is also noted that there are also a number of planning applications for mineral extraction pending consideration, namely:

- Bow Farm Quarry, Bow Lane, Ripple – Proposed extraction of approximately 1.5 million tonnes of sand and gravel over a total of 11 phases (MPA Ref: 19/000048/CM). Should this planning application be granted permission, it would increase the landbank by approximately 2.62 years.
 - Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster – Proposed extraction of approximately 3 million tonnes of sand and gravel over a total of 6 phases (MPA Ref: 19/000053/CM). Should this planning application be granted permission, it would increase the landbank by approximately 5.24 years.
 - Pinches Quarry Phase 4, Wildmoor Lane, Wildmoor, Bromsgrove – Proposed extraction of approximately 1 million tonnes of sand and gravel (MPA Ref: 19/000056/CM). Should this planning application be granted permission, it would increase the landbank by approximately 1.75 years.
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- Ryall North Quarry, Land off Ryall's Court Lane, Holly Green, Upton-upon-Severn – Proposed extraction of approximately 475,000 tonnes of sand and gravel (MPA Refs: 20/000009/CM and 20/000015/CM). Should this planning application be granted permission, it would increase the landbank by approximately 0.83 years.
- (Western portion of the former) Sandy Lane Quarry, Wildmoor - Proposed importation of inert restoration material and extraction of approximately 245,000 tonnes of sand to enable engineering operations for stability purposes and completion of site restoration (MPA Ref: 21/000029/CM). Should this planning application be granted permission, it would increase the landbank by approximately 0.43 years.

200. It is noted that Draft Policy MLP 14: Scale of Sand and Gravel Provision of the Emerging Worcestershire Minerals Local Plan states that “...*the scale of provision required over the life of the plan [2036] is at least 14.872 million tonnes of sand and gravel...*”.

201. The Government's Planning Practice Guidance (PPG) (Paragraph Reference ID: 27-082-20140306) states “*for decision-making, low landbanks may be an indicator that suitable applications should be permitted as a matter of importance to ensure the steady and adequate supply of aggregates*”. Notwithstanding this, as indicated by the PPG (Paragraph Reference ID: 27-084-20140306) “*there is no maximum landbank level and each application for mineral extraction must be considered on their own merits regardless of length of the landbank. However, where a landbank is below the minimum level this may be seen as a strong indicator of urgent need*”. The proposal is considered to be consistent with paragraph 213 f) of the NPPF as it would contribute towards the MPA's landbank for sand and gravel.

Sieve test / methodology

202. 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 proposed development is not within an identified preferred area for sand and gravel extraction; therefore, the proposal will need to be judged against Policy 2 – 'Other Sand and Gravel Deposits' of the adopted Minerals Local Plan. However, the weight to be afforded to Policy 2 of the adopted Minerals Local Plan is limited, given that it could be argued that this policy is out of date, as it is not considered to be consistent with the NPPF. Notwithstanding this, the following assesses the proposal under Policy 2.

203. 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 (Stage 1) or more than one secondary constraint (Stage 2), planning permission will not normally be granted unless there are exceptional circumstances. Paragraph 5.5 sets out that “*the constraints have been used to identify those areas of*

the identified deposits which, in the County Council's view, have the least environmental constraints to mineral extraction".

204. One of the primary constraints is *"A buffer strip of 200 metres from the boundary of a potential working area to the nearest main walls of the nearest property in a settlement group of 6 or more dwellings"*. The applicant acknowledges that a distance of 200 metres from The Slad, would prevent operations from taking place in approximately half of the site. As referenced earlier under 'The Site' heading in this report, the nearest residential properties on The Slad, are about 20 metres broadly to the south-east of the site. The Head of Planning and Transport notes there is a settlement group of six or more dwellings, including those at The Slad, which fall within the 200 metre buffer strip. Notwithstanding this, it is noted that WRS have no objections in terms of noise and dust subject to conditions. Consequently, the Head of Planning and Transport Planning considers that refusal of planning permission on these grounds could not be justified.

205. It is also considered that the site is subject to one secondary constraint as the site is located upon an aquifer – Groundwater Source Protection Zone (Zone 3 – total catchment). This is considered in more detail in the 'water environment' section of this report, but it is noted that the Environment Agency have raised no objections, subject to conditions. Consequently, the Head of Planning and Transport Planning considers that refusal of planning permission on these grounds could not be justified.

206. Stage 3 of the sieve test refers to a *"feasibility check on viability, availability lead times and markets. Viability and availability concern the existence of an economically workable deposit, and the likelihood of it becoming available to the minerals industry within the plan period"*. As set out earlier in the report, the applicant has set out that the principal aim of the development is to provide grazing for horses on a permanent basis. They therefore have set out that they can operate at a lower level of profit margin than would apply to a national or multi-national operator and the overheads are low (for example, no Head Office staff and functions to pay for and no shareholders for dividends). As set out under the 'Background' heading earlier in this report, the applicant acknowledges that the removal of sand off-site would enable an income to be realised. Given the above and that the applicant is seeking to work this deposit as soon as possible, the MPA have no reason to consider the deposit is not viable or economically workable.

207. Notwithstanding the above assessment of the proposal against Policy 2 of the adopted Minerals Local Plan as set out above, the Head of Planning and Transport Planning considers that the weight to be afforded to Policy 2 of the adopted Minerals Local Plan is limited, given that it could be argued that this policy is out of date, as it is not considered to be consistent with the NPPF, which does not operate a sieve test, or impose a blanket ban on all development within primary constraints, for example within Areas of Outstanding Natural Beauty (AONBs), SSSIs or within 200 metres of a group of six or more dwellings.

Green Belt

208. The proposal is located within the West Midlands Green Belt. A letter of representation has been received objecting on the grounds of adverse impacts upon the Green Belt.

209. In terms of the Development Plan, Policy WCS 13 of the Worcestershire Waste Core Strategy permits waste management facilities in areas designated as Green Belt where the proposal does not constitute inappropriate development, or where very special circumstances exist. This is supplemented by Policy SAL.UP1 of the Wyre Forest Site Allocations and Policies Local Plan 2006-2026 which states that development will not be permitted, except in very special circumstances, except in a number of circumstances which are listed in the policy, but do not include references to mineral extraction or engineering operations as referenced in the NPPF. Thus, given that Policy WCS 13 of the Worcestershire Waste Core Strategy (Adopted 2012) and Policy SAL.UP1 of the Wyre Forest Site Allocations and Policies Local Plan 2006-2026 (Adopted July 2013) are both materially post-dated by the NPPF, the Green Belt policies of the NPPF take primacy in this case.

210. Draft Policy MLP 27: Green Belt of the Emerging Worcestershire Minerals Local Plan states that: *“a) Mineral extraction and / or engineering operations within the Green Belt, will be supported where a level of technical assessment appropriate to the proposed development demonstrates that, throughout its lifetime, the mineral extraction and / or engineering operations will:*

- *preserve the openness of the Green Belt; and*
- *not conflict with the purposes of including land within the Green Belt.*

211. *b) Where any aspect of the proposed development is inappropriate [NEW FOOTNOTE: Green Belt policy on inappropriate development, and development that may not be inappropriate, is set out in Ministry of Housing, Communities and Local Government (February 2019) National Planning Policy Framework, Paragraphs 143-147] in the Green Belt - including mineral extraction and / or engineering operations that cannot satisfy the tests in part (a) above - it will only be supported where a level of technical assessment demonstrates that very special circumstances exist that mean the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.*

212. The introduction to Section 13 of the NPPF states that *“the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*

213. Paragraph 138 of the NPPF states that *“Green Belt serves five purposes:*

- *to check the unrestricted sprawl of large built-up areas;*
 - *to prevent neighbouring towns merging into one another;*
 - *to assist in safeguarding the countryside from encroachment;*
 - *to preserve the setting and special character of historic towns; and*
-

- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*".

214. Paragraph 147 of the NPPF states in respect of proposals affecting the Green Belt that *"inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"*. Paragraph 148 of the NPPF states *"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations"*.

215. Minerals can only be worked where they are found and mineral working is a temporary use of land. Paragraph 150 of the NPPF identifies certain forms of development as not inappropriate development within the Green Belt, this includes mineral extraction and engineering operations, *"provided they preserve its openness and do not conflict with the purposes of including land within it"*.

216. Given an essential characteristic of Green Belt is 'openness', it is important to understand what this means. There has been significant argument around the concept of openness and the extent to which it encompasses visual effects as opposed to just the physical / volumetric effect of new development. This was largely resolved by the Court of Appeal in *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466, where Sales LJ said: *"The concept of 'openness of the Green Belt' is not narrowly limited to the volumetric approach suggested by [counsel]. The word 'openness' is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs ... and factors relevant to the visual impact on the aspect of openness which the Green Belt presents"*.

217. Subsequently, in February 2020, the Supreme Court in *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3 generally supported the Turner decision, but provided further analysis of openness: *"The concept of "openness" in para 90 of the NPPF [a previous version] seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: "to prevent urban sprawl by keeping land permanently open ...". Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As Planning Policy Guidance (PPG) 2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land"*,

218. And: “[Openness] is a matter not of legal principle but of planning judgement for the planning authority or the inspector”.

219. Thus, harm to the Green Belt, and specifically its openness, is a planning judgement which can be shaped by a number of factors including:

- The extent to which there is urban sprawl;
- How built up the Green Belt is now and would be;
- The extent to which a proposal conflicts with the five purposes served by Green Belt; and
- Visual impact on the aspect of openness which the Green Belt presents.

220. The PPG provides useful guidance when *“assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:*

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation”* (Paragraph: 001 Reference ID: 64-001-20190722).

221. The earlier section of this report under the heading ‘The Proposal’ sets out what the proposal involves. The applicant has confirmed that there would not be any buildings or structures associated with the development. In terms of plant and equipment proposed, the applicant has stated that there would be a McCloskey S190 screener, a tracked 360° excavator (Doosan DX225 or equivalent) for the spreading of loose-tipped soils, a front-loading shovel (Doosan DL550 or equivalent) for mineral extraction/screen loading and one articulated dump truck for the transport of excavated mineral to the screen.

222. The applicant has set out that the export of sand would result in approximately 35 vehicle movements (17.5 x two-way) per day. The proposed quantity of soil to be imported has now reduced to an estimated 21,000 cubic metres, which the applicant has stated would result in four movements or two vehicle deliveries on average per day. It is considered that the activity associated with the mineral extraction would, to some extent, impact on the openness of the Green Belt but not enough in the view of the Head of Planning and Transport Planning to exceed the threshold or tipping point for the purposes of applying paragraph 150 of the NPPF in respect to openness.

223. The applicant estimates that extraction would take place over a period of approximately three years and according to the Transport Assessment, the importation is expected to take approximately three years and 6 months with both activities expected to start at the same time and the latter forming the full extent of the construction programme. The landform that would be created would consist of a series of platforms, which would be separated by a reduction in height of

approximately 2 metres, through the use of 45 degree batters. The upper and lower extents of the platforms would be fenced with post and rail fencing. There would be occasional tree planting along the batter length. There would also be a haulage road. The site would be restored to agriculture (pasture for horses). Conditions could be imposed to ensure that following the restoration of the land that any plant, equipment, structures or buildings would be removed and that details of means of any enclosure are provided. As such, the Head of Planning and Transport Planning considers that there would be a very limited permanent spatial or visual impact on the Green Belt.

224. The proposed development would, notwithstanding its duration, be a temporary activity and, therefore, would not conflict with the fundamental aim of Green Belt policy. In a similar manner, whilst the proposal would disturb the site for a period of time, it would not conflict with the five purposes of Green Belt, as the site would be progressively returned to an open state following completion of extraction. In view of this, the Head of Planning and Transport Planning considers that the exceptions for mineral extraction and engineering operations at paragraph 150 of the NPPF would apply, and the proposed development is, therefore, not inappropriate development in the Green Belt.

225. As the proposed development is not considered to constitute inappropriate development, there is no need under the Town and Country Planning (Consultation) (England) Direction 2021, to refer this application to the Secretary of State for the Ministry of Housing, Communities and Local Government if Members are minded to grant planning permission for this development.

Ecology and Biodiversity

226. Policy WCS 9: Environmental Assets of the WCS, includes ensuring that that proposals, will have no unacceptable adverse impacts on international, national or locally designated or identified habitats, species or nature conservation sites. Policy WCS 10: Flood risk and water resources of the WCS refers to ensuring that proposals would *"have no likely significant effects on any internationally designated sites"*.

227. Policy CP14: Providing Opportunities for Local Biodiversity and Geodiversity Delivering Sustainable Development Standards of the Wyre Forest District Council Core Strategy refers to safeguarding biodiversity sites, including SSSIs, requiring new development to contribute towards biodiversity, and to safeguard the biodiversity value of The Staffordshire and Worcestershire Canal. Policy SAL.UP5: Providing Opportunities for Safeguarding Local Biodiversity and Geodiversity in the Wyre Forest District Council Site Allocations and Policies Local Plan includes seeking to enhance biodiversity both within and outside of designated areas and protecting populations or conservation status of protected species or priority species or habitat, as well as protecting SSSIs and protecting and enhancing locally important sites.

228. Section 15 of the NPPF, paragraph 174 states that *"planning policies and decisions should contribute to and enhance the natural and local environment", by a number of measures including protecting and enhancing...sites of biodiversity...(in a manner commensurate with their statutory status or identified quality in the development plan); minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"*.

229. Paragraph 180 of the NPPF states that when determining planning applications, local planning authorities should apply four principles (a. to d.), this includes: *"if significant harm to biodiversity 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"*; and *"development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate"*.

230. Wilden Marsh & Meadows SSSI is located immediately to the western side of Wilden Lane and is approximately 20 metres from the site. The River Stour Flood Plain SSSI is located approximately 150 metres to the west of the site.

231. The River Stour LWS is located approximately 100 metres to the west of the site. Wilden Meadows LWS is located approximately 470 metres broadly north-west of the site beyond which is the Staffordshire and Worcestershire Canal LWS and associated Conservation Area located about 650 metres broadly to the west of the site. Vicarage Farm Heath LWS is located approximately 1.4 kilometres broadly north-west of the site, beyond which is the Burlish Camp LWS located about 1.7 kilometres broadly north-west of the site. The Hartlebury Castle Marsh and Pools LWS is sited about 1.4 kilometres, broadly to the south east of the site.

232. The EA with regard to biodiversity have commented that some further detail on the following points would ensure a more robust biodiversity enhancement plan and restoration to assist decision making. The Wilden and Hartlebury Common SSSIs are both in close vicinity to this site. They advise consulting Natural England. Through reducing silt loss that currently occurs from the site and the creation of a swale to encourage water to infiltrate to groundwater there could be some uplift to current conditions. However, an appropriate plan to manage this and ensure that siltation/pollution (particularly to groundwater) is prevented from negatively impacting the site operation and as part of future management.

233. They note the proposal to return the site to grazing land. Through the process of mineral extraction and the final restoration the current siltation issue from the site is likely to be reduced - the nearby receptor (River Stour) is a salmonid river which is vulnerable to siltation.

234. The proposals provide some commitment to create habitat for invertebrate communities. The current site with diversity from open land to scrubby boundaries should not be lost and be retained and replicated where possible during extraction and when restored to equine grazing. They expect the proposals to offer biodiversity enhancement and would encourage 'net gain' opportunities to be provided. The EA suggest that some sort of wetland feature to manage silt as part of the sediment pond(s) or separate to a swale should be considered. Related to this but not their issue, the Planning Statement records that wading birds use the site at present: the proposed use of the restored land to equine pastures does not mitigate for this loss

but a wetland area could assist.

235. The EA state that any management plan should address biosecurity. They note Japanese Knotweed and Himalayan Balsam are recorded in the area; a working plan and design for reducing siltation (sediment ponds are discussed in the submission) during the construction phase. Detail on design and management of the site into restoration phase in order to ensure that biodiversity does not decline during the excavations and soon after restoration.

236. Management considerations should also include the boundaries (as a corridor for wildlife and use to slow runoff/wind erosion from site) and the swale/ditch proposed (and a design which optimises hydrological connectivity to groundwater and biodiversity uplift): this is particularly key due to its proximity to the two SSSIs and the River Stour. The infiltration to groundwater and swale is preferable to losing from the site but would need management over time to ensure the effectivity remains.

237. Natural England has no objection subject to the recommendations of the Preliminary Ecological Appraisal (dated 26 January 2021) and Ecological Mitigation and Management Plan (dated 24 January 2021) being adhered to and appropriate mitigation outlined below being secured. They consider that without appropriate mitigation the application would damage or destroy the interest features for which Wilden Marsh and Meadows and River Stour Flood Plain SSSIs have been notified.

238. In order to mitigate these adverse effects and make the development acceptable, mitigation measures are required, which include requiring a CEMP for biodiversity to describe how construction works would avoid damage to the SSSI, and a scheme for the provision of surface water drainage works to ensure no water quality and quantity implications to the nearby designated sites. They advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Natural England have also set out further advice on designated sites/landscapes and advice on other natural environment issues. They have set out that guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites and recommend its use in the design and construction of development, including any planning conditions.

239. WWT note the contents of the various associated documents and in particular the findings and recommendations set out in the Preliminary Ecological Appraisal (PEA). They note that the site falls close to the Wilden Marsh and Meadows SSSI and other ecological receptors. They do not have an in-principle objection to this application but consider that there are a number of ecological features that need to be taken into account in its determination. For the most part these are detailed in the PEA and it seems likely that the helpful recommendations for mitigation can be implemented effectively under appropriately worded conditions. However, they note that there are several references to special sandy habitats that support a range of scarcer flora and burrowing invertebrates including solitary bees and wasps.

240. They are pleased to support recommendations for retention and enhancement of acid flora and restoration of some features suitable for the invertebrates and

consider that these could be refined and improved following more detailed invertebrate surveys. Sandy habitats of this sort can be extremely valuable for communities of invertebrate species (as evidenced by nearby SSSIs at Hartlebury and The Devil's Spittleful) and they strongly recommend that the proposal is discussed in detail with the County Ecologist to confirm whether further invertebrate survey work is required prior to determination. This would be in line with legal obligations and planning policy and should include consideration of mitigation and compensation for any habitat losses, and biodiversity net gain potential associated with these species. WWT have recommended imposing a number of conditions relating to a CEMP, SuDS and a LEMP.

241. The County Ecologist has stated that the proposals to retain and enhance patches of acid grassland and sandy banks for invertebrates and the protection of Wilden Marsh SSSI from silty run-off are very much welcomed. They have reviewed the amended PEA (dated 26 January 2021) and is very pleased that the further consideration given to notable species, particularly invertebrates, is very comprehensive and provides thorough reassurance that they can discharge our duty to consider these species within the planning process. They have no objection to the proposed works, subject to the imposition of conditions relating to a CEMP, Biodiversity and a LEMP.

242. They comment that the Ecological Mitigation and Management Plan (EMMP), submitted with the amended PEA goes some way to addressing both recommended conditions, and 'EMMP' is a more suitable title for this document than either CEMP or LEMP as they had suggested. Further detail would be needed to discharge either condition, as itemised within the recommended wording for each. One area needing clarification is how the retained and created acid grassland would be protected from over-grazing by horses – horse grazing can be beneficial if well-managed, but that commitment must be set out within the management plan.

243. Based on the advice of the EA, Natural England, WWT and the County Ecologist, the Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, subject to the imposition of conditions relating to an Ecological Mitigation and Management Plan, soils, aftercare scheme including controlling invasive species, CEMP (Biodiversity), SuDS, and a LEMP. The Head of Planning and Transport Planning considers that the proposed development accords with Policies WCS 9 and WCS 10 of the WCS, Policy CP14 of the Wyre Forest District Council Core Strategy, and Policy SAL.UP5 of the Wyre Forest District Council Site Allocations and Policies Local Plan.

Water environment including flooding

244. Policy WCS 10: Flood risk and water resources of the WCS refers to considering flood risk as well as any potential impacts on surface and ground water. Policy CP02: Water Management of the Wyre Forest District Council Core Strategy seeks to ensure that new developments incorporate Sustainability Drainage Measures (SuDS) and to seek betterment in flood storage...where appropriate. Policy SAL.CC7 Water Management of the Wyre Forest District Council Site Allocations and Policies Local Plan refers to ensuring that all new developments incorporate SuDS schemes as well as ensuring that development proposals do not have a negative

impact of water quality and help to conserve and enhance watercourses and riverside habitats.

245. The River Stour is located about 75 metres broadly to the west of the site. The site is located within Flood Zone 1 (low probability of flooding) as identified on the EA's Indicative Flood Risk Map. As the application site measures approximately 7.1 hectares in area, a Flood Risk Assessment is required to accompany the application, in accordance with paragraph 167 and footnote 55 of the NPPF.

246. The PPG at Paragraph Reference ID: 7-033-20140306 states that it should not normally be necessary to apply the Sequential Test to development proposals in Flood Zone 1 (land with a low probability of flooding). The PPG at 'Table 2: Flood risk vulnerability classification' indicates that 'Land and buildings used for agriculture and forestry' is a 'less vulnerable use' and 'sand and gravel' is considered to be 'water compatible'. 'Table 3: Flood risk vulnerability and flood zone 'compatibility'' shows that 'water compatible' and 'less vulnerable uses' are considered acceptable in Flood Zone 1.

247. The proposal is located upon an aquifer - Groundwater Source Protection Zone (Zone 3 – total catchment).

248. The applicant has set out that one of the prime motives behind the proposal is to reduce surface water flows that cause silt to be carried from the site onto Wilden Lane and that the delay in the discharge of water following a rainfall event would reduce the potential for flooding elsewhere. They have also set out that the slowing of the discharge would occur through the absorption of some of the water into the growing medium and the grass sward coverage which is proposed for the restored areas. As the restored areas are not being used for the 'operation' of the site there would be no interruption to that operation.

249. NWWM on behalf of the LLFA has stated that the site is not at risk of any type of flooding. They have stated that it is well-known that any meaningful rainfall regularly results in sediment rich surface water flood flows being generated on the site, with large amounts of sediment originating from the site getting deposited onto Wilden Lane. This causes a nuisance for drivers and nearby property owners, and it clogs up existing highway drainage infrastructure. They are not aware where the highway drainage serving this section of Wilden Lane exactly falls out, but it is assumed that a discharge is made into the river Stour, the nearest watercourse. Therefore, a development of this site that will mitigate this discharge is welcomed.

250. They understand from the submitted information that it is the intention to deal with surface water runoff completely within the site boundaries, both during the operational phase and the restoration phase. This as noted in the submitted FRA exceeds the requirements of the non-statutory technical standards for sustainable drainage systems (Defra).

251. In terms of catchment ponds, the proposal includes that the first operation will be the formation of catchment ponds at the lower elevations in the eastern part of the site to prevent ongoing deposition of material on the highway. This would be before

any restoration has taken place so the ponds would initially receive runoff from the whole of the site and should be designed to retain runoff until it can be infiltrated.

252. They note that the FRA contains an estimate about the storage volume that these catchment ponds should provide (1,120 cubic metres), making inevitable assumptions regarding the amount of runoff generated by the catchment in a 1 in 30 year event. Based upon an assumed area (750 square metres) infiltration rate (1×10^{-5} m/s) the half empty time would be about 20 hours. Although it would be difficult to better quantify the amount of runoff generated on the existing site, the FRA sets out the infiltration rate of the area where the ponds are to be installed should be measured on site to enable a more accurate design of the catchment ponds to be produced and to ensure the base of the ponds is above the seasonal groundwater table. The ponds should be designed with sufficient freeboard to allow exceedance events to be retained on site. They consider that the design and maintenance of these catchment ponds can be controlled by means of appropriate conditions.

253. With regard to the French drains, they note that during the restoration the majority of the site would be terraced and that a French drain would be constructed at the base of each terrace. The French drains would provide storage for runoff from the terrace and slope above the drain and would allow captured runoff to infiltrate into the ground.

254. The FRA includes calculations of typical dimensions required for these French drains and cautions that the typical batter cross section (submitted also as appendix 2 of the planning statement) does severely understate the dimensions required for these drains. The FRA sets out that based upon assumptions made regarding the size of the terrace served (30 metres), the type of imported soil (clay rich) and the infiltration rate a typical French drain might need to be 1.5 metres deep and 1.35 metres wide to comply with the non-statutory technical standards for sustainable drainage systems (Defra). The dimensions indicated on the 'typical batter cross section' are only 0.6 metres deep and 0.3 metres wide. Therefore, the required French drain dimensions estimated in the FRA are 2.5 times deeper and 4.5 times wider than currently indicated on the 'typical batter cross section'.

255. The FRA advises that the French drain design should be updated to provide a better indication of the required capacity. This capacity should be determined for each of the terraces specifically (as the required capacity depends on the size of the terrace), using infiltration rates determined on the site. If the imported soil was to be more sandy then the assumptions made (based upon clay rich soil) would be conservative. They consider that the detailed design of these French drains should be conditioned, as well as the submission of a maintenance schedule to ensure the assets would remain effective.

256. It appears to NWWM that the entire restored landform is somewhat fluid and as such it might not be possible to provide the required capacity for each French drain in a discharge of condition application. However, they do consider that the typical batter cross section (submitted also as appendix 2 of the planning statement) should be altered to provide a more realistic indication of the dimensions likely to be required. They also consider that a robust methodology should be proposed for the design of each of the French drains as part of the discharge of condition, so they can be certain

that the French drain that would be provided for each terrace would be appropriately sized to comply with the design criteria.

257. With regard to the collection ditch / swale, they comment that the lowest part of the site, where the ponds would be sited during the operational phase, would not be benched. The proposal is that in the final phase of restoration a residual ditch or swale would be installed here to capture runoff between Wilden Lane and the terracing up the slope to the east. This ditch or swale would be a collection ditch only, so there would be no outfall and would drain via infiltration only. The proposal is that the base of this area will be at a lower level than Wilden Lane to prevent runoff onto the roadway and release of surface water across to the River Stour and adjacent SSSIs.

258. The FRA recommends that the restoration design in the western part of the site should be modified to incorporate ponds and/or a swale to capture residual runoff and allow infiltration (subject to determination of infiltration rates and groundwater elevation). It would need to ensure that the base of the ditch/swale is above the seasonal groundwater table. They consider that the detailed design of this collection ditch or swale and maintenance schedule should be conditioned.

259. They consider that given the dispersed, source control nature of the proposed drainage structures and the fact that each drainage structure relies upon infiltration, it is unlikely that the proposed development would adversely impact the nearby water dependent SSSIs. They therefore consider that subject to appropriate conditions that there would be no reason to withhold approval of this application on flood risk grounds.

260. Severn Trent Water Limited have stated that as the proposal has minimal impact on the public sewerage system, they have no objections to the proposal and do not require a drainage condition to be applied.

261. The Environment Agency (EA) have no objection. The site is located above a Principal Aquifer, Source Protection Zone (SPZ3), Water Framework Directive (WFD) groundwater body, WFD drinking water protected area and is within 60 metres of a surface water course and adjacent to a SSSI. Groundwater beneath the site is potentially shallow. The River Stour floodplain runs to the west (but the site area is within Flood Zone 1 – low probability). The site is considered to be of high sensitivity and the proposed development presents potential pollutant linkages to controlled waters. Therefore, an assessment of potential contamination found in the proposed development site, an assessment of the pollutant linkages that the development could introduce through importation of material, and consideration for the risk posed by surface water drainage and groundworks would need to be undertaken.

262. The EA have welcomed the additional information provided in the revised Preliminary Hydrogeological Risk Assessment. They note that the Preliminary Hydrogeological Risk Assessment has identified viable Source (i.e. fuel or chemical spillage to ground)/Pathway/Receptor linkages for the Bedrock Aquifer, River Stour and Wilden Marsh SSSI Groundwater Dependent Terrestrial Ecosystem.

263. The Preliminary Hydrogeological Risk Assessment does not address import of potentially contaminative materials (e.g. rogue loads or misclassification of waste) as part of the restoration. They do not accept the suggested vertical hydraulic conductivity of 0.01m/d, given in Section 5.1 Infiltration to the Bedrock Aquifer. Table 7.3.3 of 'The physical properties of major aquifers in England and Wales', Technical Report WD/97/34 R&D Publication 8, actually gives mean horizontal and vertical hydraulic conductivities for the Wildmoor Sandstone of 0.56m/d and 0.2m/d, respectively. On this basis the travel time for infiltration from the ground surface to recharge to the aquifer is estimated at 50 to 150 days rather than the quoted 1,000 to 3,500 days. Similarly, travel time for infiltration from the site to the River Stour will be significantly less than the suggested 10 + years (i.e. approximately 250 to 750 days). Travel time to the Wilden Marsh SSSI could be as little as 150 days. These aspects will need to be revised as part of any HRA submitted in support of the required Bespoke Environmental Permit (EP) application, for the proposed restoration.

264. The proposed mineral extraction presents a risk to groundwater which is particularly sensitive in this location because the proposed development site is within 100 metres of the River Stour; is within 50 metres of the Wilden Marsh SSSI, and is located upon a principal aquifer

265. The Hafren Environmental Associates, Preliminary Hydrogeological Risk Assessment (Rev 02), April 2021, submitted in support of this planning application provides some confidence that it will be possible to suitably manage the risks posed to groundwater resources by this development. Section 6 confirms the importance of appropriate control measures being implemented and lists some possible mitigation measures.

266. With regard to pollution prevention, the EA have referenced that developers should incorporate pollution prevention measures to protect ground and surface water.

267. As set out in more detail earlier in this report under the 'Ecology and Biodiversity' heading, Natural England and Worcestershire Wildlife Trust have requested conditions relating to a CEMP (Biodiversity), surface drainage and SuDS.

268. In light of the above and based on the advice of North Worcestershire Water Management, Seven Trent Water Limited, the EA, Natural England and WWT, the Head of Planning and Transport Planning considers that there would be no adverse effects on the water environment, subject to the imposition of appropriate conditions relating to the submission of a CEMP (Biodiversity), surface drainage; SuDS, and the design of any facilities for the storage of oils, fuels or chemicals. The Head of Planning and Transport Planning considers that the proposed development accords with Policy WCS 10 of the WCS, Policy CP02 of the Wyre Forest District Council Core Strategy, and Policy SAL.CC7 of the Wyre Forest District Council Site Allocations and Policies Local Plan.

Landscape character, visual impact and historic environment

269. Policy WCS 9: Environmental assets within the WCS refers to considering the effect of the proposal on designated and non-designated heritage assets and their

setting. Policy WCS 12: Local characteristics refers to permitting waste management facilities where it is demonstrated that they contribute positively to character and quality of the local area. Policy WCS 14: Amenity in the WCS refers to considering visual intrusion.

270. Policy CP11: Quality Design and Local Distinctiveness in the Wyre Forest District Core Strategy states that new developments...should take into account heritage assets. Policy CP12: Landscape Character in the Wyre Forest District Core Strategy states that new development must protect and where possible enhance the unique character of the landscape. Policy CP13: Providing a Green Infrastructure Network in the Wyre Forest District Council Core Strategy refers to new development being required to contribute positively towards the District's green infrastructure network. Policy SAL.UP6: Safeguarding the Historic Environment of the Wyre Forest District Council Site Allocations and Policies Local Plan states that "*Any development proposal affecting the District's heritage assets, including their setting, should demonstrate how these assets will be protected, conserved and, where appropriate, enhanced*".

271. Policy SAL.UP1 Green Belt of the Wyre Forest District Council Site Allocations and Policies Local Plan states that "*Proposals within, or conspicuous from the Green Belt, must not be detrimental to the visual amenity of the Green Belt, by virtue of their siting, materials or design*".

272. Views of the site from public vantage points to the north, such as Hillary Road, are obscured due to the topography of the surrounding land and the presence of mature vegetation.

273. From the east, the existing access from Wilden Top Road is visible. The access road from Wilden Top Road and the land adjacent to either side of the access road is broadly level and is understood to be in agricultural use in terms of grazing. The access road has post and rail fencing running along both sides. Some of the proposed post and rail fencing and some of the proposed planting may be visible from public vantage points to the west but any views would be distant and would be read in the context of existing boundary treatments that include the existing post and rail fencing.

274. From the south of the site there are views of the site and the access road from Wilden Top Road, including from residential properties on The Slad. The presence of some mature planting including deciduous trees on the boundary of the site would partially restrict views into the site, albeit that views in autumn and winter would be more prevalent due to seasonal changes in foliage.

275. From Wilden Lane, to the west of the site, views of the wider site are generally obscured due to the presence of mature vegetation along Wilden Lane. There are views into the site from close to the existing access onto Wilden Lane although such views are generally limited to the lower parts of the site. The site, including some of the plant, is visible from more distant locations to the west including from the PRow Bridleway Ref SV-539. From such vantage points, the broad landform of the site is

apparent as well as the general absence of any ground cover and generally limited vegetation within the site.

276. The visual impact of the development is likely to increase during the operational phase of the development, including vehicles using the respective access roads being visible as well as potentially some of the stockpiles of materials. The proposed terracing landform including the proposed post and fencing would be visible from public vantage points, most notably from the west. The proposed restoration including planting as well as the proposed grassing would help to lessen the visual impact of the proposal particularly as the planting matures.

277. With regard to heritage assets, 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"*.

278. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty as respects Conservation Areas in the exercise of planning function stating *"in the exercise, with respect to any buildings or other land in a Conservation Area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*.

279. Paragraph 195 of the NPPF states that *"local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal"*.

280. Paragraph 199 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"*. Paragraph 200 of the NPPF states that *"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: ...b) assets of the highest significance...should be wholly exceptional"*.

281. The PPG at Paragraph 018 Reference ID: 18a-018-20190723 states *"whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact*

seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting..."

282. The Staffordshire and Worcestershire Canal Conservation Area is located about 650 metres broadly to the west of the site. The Grade II Listed Church of All Saints lies approximately 550 metres, broadly to the south of the site. Wilden Viaduct, which is Grade II Listed, lies approximately 830 metres broadly to the south of the site. The Grade II Registered Park and Garden of Hartlebury Castle lies approximately 1.4 kilometres broadly to the south-east of the site.

283. Due to the distance from the Conservation Area, Listed Buildings and Grade II Registered Park and Garden, coupled with the presence of intervening structures and features, including vegetation, it is considered that the proposal would not have an adverse impact on the Conservation Area, Listed Buildings or Registered Park and Garden.

284. Paragraph 194 of the NPPF states that *"where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation"*.

285. The County Archaeology Officer has commented that the Heritage Assessment in paragraph 3.4.7 of the Planning Statement is extremely brief, only mentioning the ground disturbance and that the nearest designated assets are some distance and not connected visually or culturally to the site (paragraph 2.3.2). However, despite the lack of a proper heritage statement they concur with the applicant's view that the extensive groundworks within the site would have removed any surface archaeological deposits. Additionally, a check of the archaeological interventions recorded on the Historic Environment Records (HER) in the vicinity of the site shows that the palaeo-environmental potential is also low. Therefore, they have no further comments to make on this application.

286. The County Landscape Officer notes that the application appears to be substantively similar to that submitted for Environmental Impact Assessment (EIA) Screening in February 2020, and therefore refers to their comments of 14 February 2020 that sets out their assessment of landscape matters. They note there has been no revision of the restoration concept plan and reiterates that planting linear woodland in discrete blocks, rather than scattered individual trees, would accord more favourably with established woodland and the surrounding Sandstone Estatelands landscape character.

287. The applicant notes the County Landscape Officer's comments, particularly with respect to woodland blocks, but states that they are seeking to create a profile that is most suitable for horse grazing and that does not require woodland blocks. The applicant considers that hedgerows with occasional trees would provide a different habitat and create wildlife corridors and that the ecological benefits of the proposal,

particularly in preventing runoff with suspended solids into the River Stour, is already acknowledged.

288. The County Landscape Officer states that in terms of grassland, they defer to ecology colleagues and Paul Allen (Wyre Forest District Council) for advice on appropriate acid grassland mixes. The restoration programme should however aim to maximise opportunities for biodiversity, and therefore they recommend for consideration something like Emorsgate EW1 (Woodland Mixture) for establishment under the new areas of tree planting. In summary, they have no objection to the scheme. However, they recommend that should the MPA be minded to grant permission, the landscaping scheme should be secured through a suitably worded condition. They refer to the need to submit a LEMP and schedule of landscape maintenance but acknowledge that the condition wording may need to be altered to accommodate specific ecology measures.

289. In light of the above matters, including the lack of objection from the County Landscape Officer and County Archaeology Officer, the Head of Planning and Transport Planning considers that the proposed development would not have an unacceptable impact upon the character and appearance of the local area and would not have an adverse impact on the Conservation Area, Listed Buildings, Registered Park and Garden, and archaeology subject to conditions relating to a LEMP and a restoration plan. The Head of Planning and Transport Planning considers that the proposed development accords with Policies WCS 9, WCS 12 and WCS 14 of the WCS, and Policies CP11, CP12 and CP13 in the Wyre Forest District Core Strategy, and Policies SAL.UP1 and SAL.UP6 of the Wyre Forest District Council Site Allocations and Policies Local Plan.

Residential amenity (including noise, dust, lighting, air quality or that of human health)

290. The site adjoins the residential area of Wilden, which lies broadly to the south. Nearby residential properties include those located off Wilden Lane, with the nearest residential property lying approximately 5 metres to the south of the site. There are also further residential properties, including those located on The Slad, that are about 20 metres broadly to the south-east of the site. There are other residential properties that lie broadly to the north of the site, and are accessed from Wilden Lane and Hillary Road, and which lie approximately 150 metres from the site.

291. As set out earlier under the 'Consultations' heading and also under the 'Other Representations' heading of this report, concerns have been expressed about a number of issues, including the length of working hours, noise, dust, and lighting.

292. Policy CP01: Delivering Sustainable Development Standards of the Wyre Forest District Council Core Strategy refers to ensuring land contamination issues have been fully addressed. Policy CP03: Promoting Transport Choice and Accessibility of the Wyre Forest District Council Core Strategy refers to ensuring that proposals consider their impact on air quality.

293. Paragraph 185 of the NPPF states that "*Planning...decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and*

the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development”.

294. The PPG is the most up to date Government Guidance relating to noise emissions associated with mineral extraction. It recommends noise levels for normal daytime operations (07:00 to 19:00 hours) should not exceed 55dB(A) LAeq, 1h (free field), and a higher limit of up to 70dB(A) LAeq 1h (free field) at specified noise sensitive properties for noisier, but temporary operations, such as soil stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance, but only for periods of up to 8 weeks a year. This is to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this would bring longer-term environmental benefits to the site or its environs (Paragraph Reference IDs: 27-021-20140306 and 27-022-20140306).

295. A noise assessment, undertaken in March 2020, has been provided by the applicant which identifies the background noise levels associated at three noise sensitive receptors (NSRs), which are NSR1, 36 The Slad; NSR2, 194 Wilden Lane (Yew Tree Cottage); and NSR3 182, Wilden Lane. The applicant sets out that the predictions in the noise assessment indicate that the site would be able to operate in accordance with thresholds for mineral working that are deemed acceptable in the PPG.

296. The applicant has proposed the following hours.

Operation	Proposed hours		
	Monday to Friday	Saturday	Sunday / Bank Holiday / Public Holiday
Winning and working of mineral / reprofiling of land / soil spreading	07:00 – 19:00	07:00 – 13:00	-
Export of Mineral	08:00 – 18:00	08:00 – 13:00	-
Import of Soil / Soil making material	08:00 – 18:00	08:00 – 13:00	-
Routine maintenance	07:00 – 20:00	07:00 – 20:00	08:00 – 15:00

297. The applicant has set out that Sunday maintenance is a ‘last-resort’ option and would be fairly quiet. They do not anticipate that other operations would need to take place outside the specified hours but, in the case of emergency, these may occur with the MPA being notified on the next working day. It is considered that this could be dealt with by way of imposing a suitable condition.

298. The applicant proposes that that the winning and working of mineral/reprofiling of land/soil spreading, as well as routine maintenance should be able to commence at 07:00 hours on Mondays to Fridays as well as Saturdays. The applicant has set out that there would be a short period of less than six weeks where reprofiling operations would take place within 50 metres of the nearest noise-sensitive receptor (36, The Slad).

299. The applicant has set out that attenuation of noise from the proposal would be achieved through employing a number of measures including;

- Reducing the period of time in the working day spent in proximity to these locations;
- The gradual deepening of works which creates a barrier due to the working face;
- A temporary period of operation; and
- Liaison with the residents to try and programme works when they are absent.

300. WRS (noise and dust) have stated that the submitted noise assessment appears satisfactory and predicts that noise from the proposed site activities would be compliant with the noise guidance on mineral working without the incorporation of any specific noise mitigation measures. Although the assessment predicts a significant increase in noise at Noise Sensitive Receptors (NSRs) 2 (194 Wilden Lane (Yew Tree Cottage)) & NSR3 (183 Wilden Lane), the chosen residual noise level used (46dBA) to calculate this increase is a likely underestimate due to the Covid lockdown at the time and the subsequent reduction in road traffic noise. They recommend that any noisy activities undertaken within 50 metres of the three identified NSRs (which also includes 36, The Slad) is only undertaken after 08:00 hours on any day.

301. With regard to dust, the applicant has set out that the main potential sources of dust within the quarry would be from the extraction and processing of the sand and that vehicles leaving the site also have the potential to carry fine particles onto Wilden Lane. They have stated that the prevailing wind is from the southwest and there are no near properties (within 100 metres) to the north-east of the potential dust sources that could be affected by the proposals.

302. WRS consider that the submitted Planning Statement briefly addresses dust emissions from the proposed site activities (section 3.4.1) and that this is not therefore comprehensive enough. The applicant should therefore submit a comprehensive dust management monitoring and mitigation strategy, which they have confirmed could be by way of condition.

303. WRS (land and air quality) have reviewed the planning application for potential contaminated land and air quality issues of which none have been identified. Therefore, WRS have no adverse comments to make with regards to contaminated land and air quality. They note that soil would be imported onto the site as part of the restoration scheme and have therefore recommended the imposition of a suitable condition to ensure that risks from land contamination are minimised.

304. The EA have stated that the transfer of any waste material on or off site would need to be authorised by them. They encourage the 'twin tracking' of the Permit with the planning application to provide greater certainty but this has not been forthcoming. Notwithstanding the above, they do not object and provide the following comments. They consider that a Bespoke EP would be necessary which may invoke additional mitigation measures such as engineering on site (compared to an exemption or standard rules permit controls). They state that the applicant is advised to contact the EA for further advice and to discuss the requirements and issues likely

to be raised and that the applicant should be aware that there is no guarantee than an EP would be granted.

305. The applicant has set out that they are not intending to supply additional information in support of the planning application and that they are not intending to twin-track an EP application alongside the planning application.

306. Paragraph 188 of the NPPF states that *"the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively"*.

307. Paragraph 50 Reference ID: 28-050-20141016 of the PPG elaborates on this matter, stating that *"there exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body"*.

308. As set out earlier in this report, paragraph 185 of the NPPF states that *"Planning...decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development"*.

309. Whilst noting the recommendation from WRS that a suitable condition is imposed to ensure that risks from land contamination are controlled, in this instance the site would need to operate under an EP that would control such matters.

310. Concerns have been raised, in the letter of representation, about the impact of potential lighting particularly during winter months. The applicant has pointed to the presence of surrounding lighting in the vicinity of the site and that any such lighting in relation to the site could be directed into the site where it is intended to illuminate.

311. As set out earlier in the report, including under the 'Landscape character, visual impact and historic environment' heading, there are views into the site. To minimise any adverse impact from potential lighting of the site, a suitably worded condition can be imposed.

312. The Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse impact on noise, dust, lighting, air quality or that of human health, subject to the imposition of appropriate conditions including a CEMP, noise limits and lighting. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policies CP01 and CP03 of the Wyre Forest

District Council Core Strategy.

Utilities

313. A National Grid (Cadent) High Pressure Gas Pipeline and associated HSE's Major Accident Hazard consultation zone that buffers the gas mains runs through the site, broadly on an east to west basis. The applicant has referred to this pipeline in the application documents and has stated that it is necessary to maintain a minimum of 2 metres of cover over the apparatus and that the applicant has engaged with the pipeline operator (Cadent) to establish safe working practices and types of equipment that can be used in the vicinity of the apparatus. The applicant has also set out that for the majority of its length through the site, the depth of the pipeline is significantly below 2 metres below ground level.

314. The HSE have referred the MPA to the advice that has already been obtained by the MPA through the use of the Planning Advice Web App. This states that the HSE is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/pipelines. This development is within at least one Consultation Distance, has been considered using HSE's planning advice web app and based on the details input by the MPA, HSE's Advice is that they Do Not Advise Against. Consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

315. Cadent have stated that the pipeline affected is known as 'WM1217 Hossil Lane to Kidderminster'. It operates at up to 19bar pressure and is classed as a MAHP (Major Accident Hazard Pipeline) by the HSE. Cadent have requested that a number of conditions are applied as without these conditions they would formally object to the proposals. These conditions aim to protect the pipelines' integrity, their easement and ability to work on the pipeline, and provide Cadent confidence that the proposals would not adversely affect the stability of the land and therefore risk damaging the pipeline. Cadent would work with the landowner with an aim to achieve their proposal which is favourable over its current state.

316. In light of the comments from Cadent, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon utilities, subject to the imposition of appropriate conditions that protect the pipeline.

Restoration and Aftercare

317. The NPPF states in relation to the restoration of mineral workings, *that "planning policies should ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place"* (Paragraph 210, h). It goes on to state that mineral planning authorities should *"provide for restoration and aftercare at the earliest opportunity, to be carried out to a high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances"* (Paragraph 211, e). This is reiterated in the National Planning Policy for Waste in relation to landfill sites, which at paragraph 7 states *"when determining waste planning applications, waste planning authorities should ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary"*.

318. The PPG (ID 27 Paragraphs 036 to 059) provides more detailed guidance on restoration and aftercare of mineral workings. In particular to ensure that applicant deliver sound restoration and aftercare proposals, the PPG states at Paragraph: 041 Reference ID: 27-041-20140306 that *"mineral planning authorities should secure the restoration and aftercare of a site through the imposition of suitable planning conditions and, where necessary, through planning obligations"*.

319. The applicant has submitted concept details of a restoration scheme for the site in which the land would be restored to agriculture (pasture for horses). As set out under the 'Proposal' heading in this report, the number of terraces has been shown as a gradual decline from the upper plateau at the east of the site down to a level which corresponds to the upper height of the adjacent road verge on Wilden Lane.

320. Conditions relating to the phasing, annual surveys of the ground levels, and detailed restoration and aftercare schemes are recommended should planning permission be granted to ensure the site is restored at the earliest opportunity and to high environmental standards.

321. Draft Policy MLP 11: North West Worcestershire Strategic Corridor of the Emerging Worcestershire Minerals Local Plan states that:

"Planning permission will be granted for mineral development within the North West Worcestershire Strategic Corridor that contributes towards the quality, character and distinctiveness of the corridor through the conservation, delivery and enhancement of green infrastructure networks. A level of technical assessment appropriate to the proposed development will be required to demonstrate how, throughout its lifetime, the development will, where practicable, optimise the contribution the site will make to delivery of the following green infrastructure priorities:

- a) conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines;*
- b) slow the flow of water in upper reaches and increase flood storage and floodplain connectivity in lower parts of the catchment;*
- c) create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area;*
- d) in the Riverside Meadows, conserve and restore permanent pasture, incorporating wetland habitats such as fen and marsh, wet grassland, reedbed and lowland meadows alongside pastoral land use;*
- e) in the Sandstone Estatelands, conserve, enhance and create lowland heathland, acid grassland and scrub.*

Proposals should demonstrate how the development will deliver these priorities at each stage of the site's life, and why the proposed scheme is considered to be the optimal practicable solution. Where site-specific circumstances and/or other policies in the development plan limit the ability to deliver one or more of the priorities, this should be clearly set out in the assessment

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

322. It is considered that the proposal would broadly accord with this draft policy in that the application site would be restored to agricultural land, principally for pasture (for grazing of horses), and includes measures to create acid grassland as well as seeking to reduce surface water and ground water flooding upon restoration.

323. It is also noted that the EA, Natural England, Worcestershire Wildlife Trust, the County Ecologist and County Landscape Officer all have no objections to the proposal, subject to appropriate conditions.

324. In relation to financial guarantees, the responsibility for the restoration and aftercare of mineral sites lies with the operator. Paragraph: 048 Reference ID: 27-048-20140306 of the PPG states that *"a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. Such cases include:*

- *very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry;*
- *where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development;*
- *where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission.*

325. As set out under the ‘Proposal’ heading of the report, the applicant has set out that approximately 300,000 tonnes of sand would be extracted over a three year period. Therefore, the proposal is not for example, an extremely large quarry, and is for a relatively short duration. The proposal is to remove sand and to utilise existing soil as well as importing soil to use as a growing medium, which is not considered a novel approach or technique. Therefore, it is not necessary for the MPA to seek a financial guarantee in this instance.

326. Policy WCS 5 of the WCS identifies that no capacity gap has been identified for the landfill or disposal of waste. The Policy then states that planning permission will not be granted for the landfill or disposal of waste except where it is demonstrated it meets one of the 3 listed criteria. In this instance, it is considered that Part iii) is relevant, which states *"the proposal is essential for operational or safety reasons or is the most appropriate option"*. Paragraph 4.45 of the explanatory text states *"landfill or disposal may also be necessary for a variety of operational or safety reasons. Landfill is often an essential component in the restoration of mineral workings"*.

327. The Head of Planning and Transport Planning note that the EA, Natural England, Worcestershire Wildlife Trust, the County Ecologist and County Landscape Officer all have no objections to the proposal, subject to appropriate conditions. Given the nature of the proposed working, which would extract minerals to a maximum depth of 4 metres, it is considered that in principle the restoration of the site by the importation of inert materials is acceptable in this instance, subject to a condition

relating to a revised restoration scheme. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policy WCS5 of the WCS.

Other matters

Geology

328. The Herefordshire and Worcestershire Earth Heritage Trust note that while the proposal would involve the exploitation of sand and gravel, the quantities are relatively small. A series of minor exposures would be created in the course of the works. These could be of interest, especially in the river terrace deposits in the east of the area. This interest includes both the structure, content and age of the gravel deposits and the possible occurrence of fossils. The potential interest is probably not sufficient to justify formal requests for access. However, they request that the developer exercise vigilance during the extraction process, alerting all operatives to the possibility of fossil finds, and that they co-operate in investigating and recovering any finds.

329. Similarly, the change of landform is unfortunate. The downcutting of the river into the Wildmoor Sandstone is currently evident from the steep bank, and this feature would effectively be lost or at least reduced in prominence. The degree of change, however, is not thought to justify a formal objection to the works. In conclusion, they are content to support this development, while requesting that the developer be alerted to the possibility of fossil finds and be required to co-operate in the investigation of such finds should they arise. In addition, any opportunities for geologists to inspect the exposed sand and gravel would be appreciated. The Head of Planning and Transport Planning considers that should planning permission be granted that this could be dealt with by way of an informative note, attached to the permission.

Conclusion

330. The applicant seeks planning permission for the winning and working of sand and restoration to agriculture (pasture for horses) (Part Retrospective) at former motocross site, Adjacent to Wilden Lane, Wilden, Stourport-on-Severn, Worcestershire.

331. With regard to Worcestershire's landbank of sand and gravel reserves, paragraph 213, f) of the NPPF states "*minerals planning authorities should plan for a steady and adequate supply of aggregates by...maintaining landbanks of at least 7 years for sand and gravel...whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised*". The Head of Planning and Transport Planning notes that should this planning application be granted permission, it would increase the landbank by approximately 0.52 years, equating to a landbank of approximately 5.94 years in total, which is still below the minimum landbank for at least 7 years for sand and gravel. The proposal is considered to be consistent with paragraph 213 f) of the NPPF as it would contribute towards the MPA's landbank for sand and gravel.

332. With regard to whether the proposal meets the site selection criteria set out in the adopted County of Hereford and Worcester Minerals Local Plan (Sieve Test /

Methodology, the Head of Planning and Transport Planning considers that the weight to be afforded to Policy 2 of the adopted Minerals Local Plan is limited, given that it could be argued that this policy is out of date, as it is not considered to be consistent with the NPPF, which does not operate a sieve test, or impose a blanket ban on all development within primary constraints, for example within Areas of Outstanding Natural Beauty (AONBs), Sites of Special Scientific Interest (SSSIs) or within 200 metres of a group of six or more dwellings.

333. With regard to the Green Belt, the proposal is located within the West Midlands Green Belt. Minerals can only be worked where they are found and mineral working is a temporary use of land. The proposed development would, notwithstanding its duration, be a temporary activity and, therefore, would not conflict with the fundamental aim of Green Belt policy.

334. Paragraph 150 of the NPPF identifies certain forms of development as not inappropriate development within the Green Belt, this includes mineral extraction and engineering operations, provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. In a similar manner, whilst the proposal would disturb the site for a period of time, it would not conflict with the five purposes of Green Belt, as the site would be progressively returned to an open state following completion of extraction. In view of this, the Head of Planning and Transport Planning considers that the exceptions for mineral extraction and engineering operations at paragraph 150 of the NPPF would apply, and the proposed development is, therefore, not inappropriate development in the Green Belt.

335. The site would be restored to agriculture (pasture for horses). Conditions could be imposed to ensure that following the restoration of the land that any plant, equipment, structures or buildings would be removed and that details of means of any enclosure are provided. As such, the Head of Planning and Transport Planning considers that there would be a very limited permanent spatial or visual impact on the Green Belt.

336. With regard to ecology and biodiversity, based on the advice of the EA, Natural England, WWT and the County Ecologist, the Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, subject to the imposition of conditions relating to an Ecological Mitigation and Management Plan, soils, aftercare scheme including controlling invasive species, CEMP (Biodiversity), SuDS, and a LEMP. The Head of Planning and Transport Planning considers that the proposed development accords with Policies WCS 9 and WCS 10 of the WCS, Policy CP14 of the Wyre Forest District Council Core Strategy, and Policy SAL.UP5 of the Wyre Forest District Council Site Allocations and Policies Local Plan.

337. With regard to the water environment including flooding, in light of the above matters and based on the advice of North Worcestershire Water Management, Seven Trent Water Limited, the EA, Natural England and WWT, the Head of Planning and Transport Planning considers that there would be no adverse effects on the water environment, subject to the imposition of appropriate conditions relating to the submission of a CEMP (Biodiversity), surface drainage; SuDS, and the design of any

facilities for the storage of oils, fuels or chemicals. The Head of Planning and Transport Planning considers that the proposed development accords with Policy WCS 10 of the WCS, Policy CP02 of the Wyre Forest District Council Core Strategy, and Policy SAL.CC7 of the Wyre Forest District Council Site Allocations and Policies Local Plan.

338. With regard to landscape character, visual impact and historic environment, the Staffordshire and Worcestershire Canal Conservation Area is located about 650 metres broadly to the west of the site. The Grade II Listed Church of All Saints lies approximately 550 metres, broadly to the south of the site. Wilden Viaduct, which is Grade II Listed, lies approximately 830 metres broadly to the south of the site. The Grade II Registered Park and Garden of Hartlebury Castle lies approximately 1.4 kilometres broadly to the south-east of the site. Due to the distance from the Conservation Area, Listed Buildings and Grade II Registered Park and Garden, coupled with the presence of intervening structures and features, including vegetation, it is considered that the proposal would not have an adverse impact on the Conservation Area, Listed Buildings or Registered Park and Garden.

339. In light of the above matters, including the lack of objection from the County Landscape Officer and County Archaeology Officer, the Head of Planning and Transport Planning considers that the proposed development would not have an unacceptable impact upon the character and appearance of the local area and would not have an adverse impact on the Conservation Area, Listed Buildings, Registered Park and Garden, and archaeology subject to conditions relating to a LEMP and a restoration plan.

340. With regard to residential amenity (including noise, dust, lighting, air quality or that of human health), the Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse impact on noise, dust, lighting, air quality or that of human health, subject to the imposition of appropriate conditions including a CEMP, noise limits and lighting. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policies CP01 and CP03 of the Wyre Forest District Council Core Strategy.

341. With regard to utilities and in light of the comments from Cadent, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon utilities, subject to the imposition of appropriate conditions that protect the pipeline.

342. With regard to restoration and aftercare, the Head of Planning and Transport Planning note that the EA, Natural England, Worcestershire Wildlife Trust, the County Ecologist and County Landscape Officer all have no objections to the proposal, subject to appropriate conditions. Given the nature of the proposed working, which would extract minerals to a maximum depth of 4 metres, it is considered that in principle the restoration of the site by the importation of inert materials is acceptable in this instance, subject to a condition relating to a revised restoration scheme. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policy WCS5 of the WCS.

343. With regard to traffic and highways safety, paragraph 111 of the NPPF states *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*. There is a recently constructed access from the site onto Wilden Lane. The access point is onto a section of Wilden Lane which is subject to the national speed limited although the speed limit changes to 30 mph just to the south of the access. There is also a recently constructed access from the site onto Wilden Top Road, which is a single lane carriageway in part, albeit that there are some informal passing bays that appear to be used to manage two-way flows of traffic.

344. With regard to Wilden Lane, the applicant's transport consultants have undertaken speed surveys on Wilden Lane positioned close to the existing site access point. Based on the speeds surveyed, there is a requirement for the site to achieve a 'Y' distance visibility splay of approximately 117 metres (based on 43.8 mph) and 112 metres (based on 42.7 mph) at a 'X' (set back) distance of 2.4 metres. The TA clearly shows that the site can only achieve a visibility splay of 81 metres to the centre of the carriageway (to the south). This is already a shortfall on the visibility requirements, although the Highway Authority cannot accept visibility measures to the centre of the carriageway, and the Manual for Streets shows this should be measured to the edge of the carriageway. Whilst not measured by the applicant, this would likely reduce the visibility splay achievable to approximately 70– 75 metres. The visibility achieved at the Wilden Lane access would therefore be in the order of 30-40 metres short of what is required.

345. On balance, it is considered that permitting the proposed development would be unacceptable. Paragraph 55 of the NPPF indicates that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Access to and from Wilden Top Road appears to be achievable subject to the imposition of a suitable condition. It has not been demonstrated that if two HGVs were to meet in opposing directions on Wilden Top Road or Hillary Road, that this would not have an unacceptable impact on the operation of the local highway network. The Head of Planning and Transport notes the objection from the County Highways Officer that visibility in accordance with standards could not be provided to the south of the site's access on Wilden Lane. It is considered that this could not be adequately addressed by a planning condition. The proposal is, therefore, considered to be harmful to highway safety contrary to Policy WCS 8 of the Worcestershire Waste Core Strategy, Policy CP03 of the Wyre Forest Core Strategy, Policy SAL.CC1 of the Wyre Forest Site Allocations and Policies Local Plan, and paragraph 111 of the NPPF.

346. As the recommendation before you is one of refusal councillors should be aware that as the application is part retrospective and the development applied for has been ongoing, a technical breach of planning control is taking place. As set out in the Government's Planning Practice Guidance (PPG) (Paragraph: 003 Reference ID: 17b-003-20140306), *"Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations"*. The PPG (Paragraph: 005 Reference ID:

17b-005-20140306), under the heading of 'Why is effective enforcement important?', sets out that *"Effective enforcement is important to:*

- *tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;*
- *maintain the integrity of the decision-making process;*
- *help ensure that public acceptance of the decision-making process is maintained".*

347. If councillors are so minded to agree with the recommendation, the County Council's planning enforcement officer would make an assessment with regard to whether enforcement action is appropriate in the circumstances. Enforcement action is discretionary and each case must be assessed on its own merits; the Council must first decide, having given regard to the policies contained in the Development Plan, the NPPF and any other material planning considerations, whether or not it is 'expedient' to take formal action. The test of expediency requires a careful assessment of the nature and extent of the breach of planning control, and the degree of harm it might be causing to the environment and/or amenity of the area. Amongst other things, Local Planning Authorities should act proportionately in responding to such breaches.

Recommendation

348. The Head of Planning and Transport Planning recommends that planning permission be refused for the winning and working of sand and restoration to agriculture (pasture for horses) (Part Retrospective) at Former Motocross site, Adjacent to Wilden Lane, Wilden, Stourport on Severn, Worcestershire, DY13 9JT for the following reason:

- **It has not been demonstrated that the proposed development would not have an adverse impact upon highway safety. In the absence of this information, the proposal is contrary to Policy WCS 8 of the Worcestershire Waste Core Strategy, Policy CP03 of the Wyre Forest Core Strategy, Policy SAL.CC1 of the Wyre Forest Site Allocations and Policies Local Plan, and paragraph 111 of the NPPF.**

Contact Points

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Development Team Manager) the following are the background papers relating to the subject matter of this report:

The application, plans and consultation replies in file reference 20/000042/CM, which can be viewed online at: <http://www.worcestershire.gov.uk/eplanning> by entering the full application reference. When searching by application reference, the full application reference number, including the suffix need to be entered into the search field. Copies of letters of representation are available on request from the Case Officer.
