

## **PLANNING AND REGULATORY COMMITTEE**

### **25 OCTOBER 2022**

# **PROPOSED EXTRACTION OF AGGREGATES WITH RESTORATION TO AGRICULTURE AND LAKE SUITABLE FOR WATER SPORTS ON LAND AT RYALL'S COURT, RYALL COURT LANE, RYALL, UPTON-UPON-SEVERN, WORCESTERSHIRE**

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#### **Applicant**

CEMEX UK Materials Limited

#### **Local Member**

Councillor Martin Allen

#### **Purpose of Report**

1. To consider a County Matter planning application for proposed extraction of aggregates with restoration to agriculture and lake suitable for water sports on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn, Worcestershire.

#### **Background**

2. The Mineral Planning Authority (MPA) previously approved an application in May 2016 (MPA Ref: 15/000013/CM, Minute No. 939 refers) for the proposed minerals extraction of about 1.4 million tonnes of sand and gravel and erection of a temporary wharf with progressive restoration to a landscaped lake on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn, Worcestershire.

3. The quarry was intended to provide a source of sand and gravel for processing at the existing Ryall House Farm Quarry (MPA Ref: 15/000012/CM, Minute No. 940 refers), which is an established quarry and processing plant located approximately 680 metres broadly to the east of Upton-upon-Severn, approximately 500 metres broadly to the south of Ryall, and approximately 1.8 kilometres south of the southern extent of the permitted Ryall North Quarry (approximately 3.2 kilometres from the permitted wharf at Ryall North Quarry to the permitted wharf at Ryall House Farm Quarry).

4. As set out in the Committee Report relating to MPA Ref: 15/000013/CM, the applicant was proposing to work the site on a 'campaign' basis, whereby mineral extraction is undertaken up to 4 times per year for periods of up to 7 weeks at a time. During each campaign, sand and gravel would be excavated using a 360° hydraulic excavator and loaded onto articulated dump trucks for transportation to the storage area, where a surge pile would be created. During each campaign, sand and gravel would be partly loaded into barges on the River Severn direct from the proposed wharf area and partly deposited in the surge pile. Once the surge pile reached a maximum size of 25,000 cubic metres, the

excavation campaign would cease. Operations would then be confined to the loading of barges from the surge pile with a wheeled loading shovel into a feed hopper and onto conveyors direct onto the barges. A maximum of 12 barge loads per day (on average about 165 tonnes per load, with a maximum load of 180 tonnes) would be transported from the existing wharf at Ryall North Quarry to Ryall House Farm Quarry for processing.

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

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

7. Under MPA Ref: 15/000013/CM, the phases were broadly described as follows. Phase 1 is located within the centre of the application site and covers a surface area of approximately 9.5 hectares, with an approximate sand and gravel reserve of 450,000 tonnes, which would be worked over a period of about 2.5 years.

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

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

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

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

12. The final phase would be to complete the restoration of the site. As set out in the report relating to MPA Ref: 15/000013/CM, the approved restoration scheme included proposals for a waterbody. The approved scheme was designed to create a larger and more open area of water in the south of the site, which was

intended for public access and amenity and would be suitable for fishing, boating and quiet recreational pursuits, whilst the north of the site would be narrower with a more sheltered body of water for wildlife conservation. To the south the proposed lake would be bounded by traditional grassland to provide open access to the shore for visitors, whilst the land surrounding the proposed lake in the north would contain extensive reedbeds and larger areas of swales and wet grassland. New hedgerows would be planted and interspersed with new tree planting. A bird watching area was proposed to the north of the site. The proposed wharf area and soil storage areas would be restored back to their existing use of pastureland.

13. Since MPA Ref: 15/000013/CM was approved, CEMEX UK Materials Limited have continued to extract sand and gravel from the site. However, they have now submitted two related planning applications, one (under MPA Ref: 20/000009/CM and described in this report) to extend mineral extraction southwards, proposing to extract approximately 475,000 tonnes of sand and gravel, as summarised in 'The Proposal' section of this report, and the other (under MPA Ref: 20/000015/CM, which is covered by a separate report) is to enable an alternative restoration scheme in terms of creating a void to be restored to a lake suitable for use as a Fédération Internationale des Sociétés d'Aviron (FISA) approved rowing venue.

## **The Proposal**

14. CEMEX UK Materials Ltd is seeking planning permission for proposed extraction of aggregates with restoration to agriculture and lake suitable for water sports on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn.

15. The applicant seeks to extract approximately 475,000 tonnes of sand and gravel from approximately 14.6 hectares of agricultural land west of Ryall's Court and east of the River Severn. The applicant states that based on the predicted rate of sales of approximately 300,000 tonnes per annum, the application site would take approximately 2 years to complete mineral extraction, with the final restoration taking approximately 1 year. The applicant has set out that the proposed development would allow CEMEX UK Materials Limited to continue to sell aggregate to the Worcestershire, north Gloucestershire and South Warwickshire construction market and to supply its network of concrete plants in both Worcestershire and Herefordshire.

16. The application site would be worked as an extension and the final phase to the current permitted Ryall North Quarry, which lies immediately to the north of the proposal. The applicant is proposing to combine the extant Phases 4 and 5 of planning permission 15/000013/CM into a single phase (Phase 4). The proposed development would then form the final phase (new Phase 5). The applicant has set out that the phases are based on mineral yield and soil stripping logistics. The applicant has set out that mineral extraction would be likely to commence in early 2023, with mineral extraction within the current quarry likely exhausted by the end of 2022.

17. The applicant has set out that development would commence as quarrying within Phase 4 comes to an end. Towards the end of Phase 4 a portion of the soils and overburden within Phase 5 would be stripped and directly placed within Phase 4 to affect its restoration. Quarrying would then commence within Phase 5 itself. 8 trees (oak trees) within the application site would be felled prior to the commencement of soil stripping in their vicinity. The applicant has set out that they would not be felled until absolutely necessary and that this would also be the case with the hedgerow which cuts across the north-east corner of the site. Prior to the stripping of soils, archaeological fieldwork would be undertaken.

18. Soils would be stripped in accordance with best practice and the stripped material would be used to restore that part of the quarry where extraction has recently been completed. No off-site soil storage is proposed, and there would not be any above ground bunds.

19. Once sufficient soil has been stripped, quarrying would commence. The area of excavation would measure approximately 10.2 hectares with a maximum depth of surface working of 5 metres. The campaign approach to quarrying would be retained for the life of the proposed development, i.e., extraction takes place up to 4 times a year over 4 to 7-week periods. During a campaign, a hydraulic excavator and up to 3 dumpers would be used to strip soils, which would be used to restore previously quarried areas. A small low-pressure bulldozer may also be used to shape the landform and spread soils evenly.

20. The quarried sand and gravel (referred to 'as raised' material) would be hauled by off road dumper and then stockpiled in the surge pile, adjacent to the existing wharf as is current practice. The surge pile would contain a maximum of 25,000 cubic metres of 'as raised' material and would be no more than 7.5 metres in height. Material stored within the surge pile would then be loaded onto barges throughout the year by a wheeled loading shovel using the existing mobile elevators and wharf. The material would be shipped downstream for processing and sale or use in the on-site concrete batching plant at Ryall House Farm Quarry (MPA Ref: 15/000012/CM, Minute No. 940 refers), which is a continuation of existing practice.

21. Outside of the extraction periods, plant and machinery would be removed from the application site. Between campaigns the applicant has stated that the only activity on site would be a wheeled loading shovel loading barges from the surge pile at the wharf. The applicant has stated that there would be no more than 24 barge movements a day (12 barges upstream unloaded and 12 barges downstream loaded), as per the current operations.

22. Road access would be gained as at present via Ryall Court Lane to the A4104 and would be restricted to vehicles delivering or collecting heavy plant, site staff or fuel deliveries. The applicant has stated that as per their current practice, no aggregate would be sold directly from the site and all aggregate would be removed from site by barge. Items of mobile plant would be delivered and collected from site using low loaders accessing the site via Ryall Court Lane, which is the method that has been employed since quarrying commenced at Ryall North Quarry in November 2016. The system of notifying local residents of

these vehicle movements would also continue for the extended duration of the quarry.

23. The applicant estimates that the site would be worked at a rate of approximately 300,000 tonnes of unprocessed (or 'as raised') sand and gravel per annum. As processing would take place at the existing Ryall House Farm Quarry as at present, and all silt and other non-commercial materials would be housed in the silt lagoon system within the former Saxon's Lode Quarry which lies to the south of Ryall House Farm Quarry and is currently undergoing restoration under extant MPA Ref: 07/000053/CM. The applicant has estimated that the amount of silt that would arise from processing would be an estimated 18,500 cubic metres per year (approximately 37,000 cubic metres in total) and the applicant has confirmed that there is sufficient disposal quantity for the site to be disposed of at Saxon's Lode and Ryall House Farm Quarries.

24. Extraction of sand and gravel would take place below the level of the water table, and it is proposed to work the site dry, as is the current practice at Ryall North Quarry, therefore, the applicant is proposing to dewater the site by pumping groundwater out of the extracted void to the existing settlement lagoon, located within the north-eastern area of Phase 1. Water from the existing lagoon is discharged into the River Severn via a drainage ditch.

25. The proposed operating hours would be consistent with the extant planning permission MPA Ref: 15/000013/CM, which are between 07:30 to 18:30 hours Mondays to Fridays, inclusive, and between 07:30 to 12:00 hours on Saturdays, with no working on Sundays, or Public Holidays.

26. The applicant has clarified that the proposal does not involve any new artificial lighting, other than that on mobile plant and vehicles (e.g., headlights).

27. Restoration would take place in a progressive manner with soils stripped within the phase cast back to restore previously extracted areas behind the current working face. The applicant has stated that there is no requirement for staff facilities within the site except during a campaign, when portable welfare facilities would be brought on site and then removed at the end of the campaign. During a campaign, a hydraulic excavator and up to 3 dumpers would be used to strip soils, which would be used to restore previously quarried areas. A small low-pressure bulldozer may also be used to shape the landform and spread soils evenly.

28. The site is proposed to be restored to a variety of different uses including agricultural (restored to Best and Most Versatile (BMV) quality), amenity (lake and public rights of way around the eastern, northern and north-western perimeter of the proposed lake) and nature conservation. The restoration scheme includes a lake, ponds, reedbeds, swales, ditches, wet and dry conservation grassland, agricultural grassland, and species-rich hedgerows with trees. The applicant proposes that those areas of the site to be restored to agricultural use would be subject to a 5-year aftercare programme, whilst nature conservation areas would be subject to a 10-year programme.

29. The proposed development, in extending the permitted workings in a southerly direction, would increase the extent of the lake area that would be formed. This is to allow a lake to be created that reflects the guidance provided by FISA, the governing body for rowing at the global level. Using the FISA guidance, the applicant has set out that the principles for the initial design of the restored lake have been defined as follows:

- 22 metres behind the start line for start pontoons
- 1,000 metres long in terms of racing length with 8 by 13.5 metres wide rowing lanes (108 metres rowing width)
- Maximise distance beyond the finish line as far as possible (90 metres to 250 metres if possible)
- Return lane for boats to row to back to start while course is still being used
- Course water depth greater than 3.5 metres throughout
- Cycleway along the eastern bank, to enable coaching
- Banks to have a maximum grade of 1 in 3 (although between 1 in 4 and 1 in 6 is preferred)

30. The waterbody proposed would also be suitable for other water-based leisure activities, including canoeing, free swimming, wind surfing and 'bell boats'. The applicant has set out that this would provide a more controlled environment (compared to the River Severn) for novices and children to learn and train. It would be only the fourth FISA compliant facility in England, with the closest currently lying either in Nottingham (Holme Pierrepont), which is approximately 160 kilometres driving distance or Thames Valley (Eaton Dorney), which is approximately 170 kilometres driving distance. Both these facilities are 2-kilometre international standard lakes, whilst a third 1-kilometre lake is located at Peterborough (Thorpe Meadows), approximately 200 kilometres driving distance. The applicant has stated that there are no suitable FISA compliant facilities in Wales.

31. It should be noted that a separate planning permission would be required from Malvern Hills District Council for the use of the lake for formal recreation, such as rowing.

32. The proposed overall lake would measure approximately 1,280 metres long, by approximately 135 metres to 265 metres wide, at its widest point. By comparison the approved lake measures approximately 850 metres long by approximately 65 metres to 330 metres wide, at its widest point. The overall lake would measure approximately 20.3 hectares in area. The maximum depth of the overall lake would be 6.5 metres towards the centre of the lake, with average depths of 5 metres. This is similar to the approved lake which was proposed have a maximum depth of about 7 metres in the south, with an average depth of 5 metres.

33. The applicant states that the proposal would result in the continued employment of approximately 20 members of staff based at Ryall House Farm Quarry processing plant site. It would also support the continued employment of staff involved with the site on a peripatetic basis during mineral extraction campaigns (approximately 6 member of staff).

34. Part of Footpath RP-501 runs south to north through the application site, this ends in a cul-de-sac as the remainder of Footpath RP-501 was permanently extinguished as part of planning permission MPA Ref: 15/000013/CM to facilitate the development of the quarry. As part of planning permission MPA Ref: 15/000013/CM, a new continuous footpath (Footpaths RP-554, RP-555, EA-561 and RP-556) was to be created further to the east of the original alignment of Footpath RP-501 to cater for the proposed new lake. As part of this application and the associated application pending consideration (MPA Ref: 20/000015/CM) the applicant is seeking to permanently extinguish the remainder of Footpath RP-501 and the yet to be established new continuous footpath. On completion of the restoration of the quarry site, the applicant is proposing a new continuous footpath, located to the east of the proposed lake (approximately 60 metres east of the previously approved new continuous footpaths). This new route would run south to north connecting Footpath RP-508 to Bridleway EA-54, and Footpaths EA-519 and RP-554.

35. The application is accompanied by an Environmental Statement (ES), which covers the following topics: population and human health; noise; traffic and transport; land use; flora and fauna; soils, geology and hydrogeology; water (hydrology); air and climate; material assets / cultural heritage; landscape and visual; main alternatives / risks and major accidents and statement of community involvement.

## **The Site**

36. The application site measures approximately 14.6 hectares in size and is situated within a larger tract of agricultural land. It is bounded to the north by an overhead powerline and agricultural fields. These fields form part of Ryall North Quarry (granted planning permission under MPA Ref: 15/000013/CM). Approximately 85 metres to the south of the application site lies the A4104, which runs from Pershore broadly to the north-east and to Little Malvern broadly to the west. The River Severn lies approximately 180 metres to the west of the site beyond agricultural land and flows in a southerly direction. A sewage works lies approximately 290 metres to the east, beyond agricultural land. The Upton-upon-Severn Marina is located about 180 metres, broadly south of the site to the south of the A4104.

37. The site is predominantly agricultural, consisting primarily of one large field put to grazing use (and referred to locally as Fish Meadow). A small portion of a neighbouring field has also been incorporated into the proposed development area, including a boundary hedge and a number of isolated trees. Fish Meadow is used for informal camping for the Upton Blues Festival and also as a venue and camping site for the Mello Festival and Sunshine Music Festival.

38. The site is relatively flat with ground levels ranging between 10 metres and 11 metres Above Ordnance Datum (AOD), and is very roughly triangular shaped, orientated north to south with the apex located at the northern most part of the

site. The site measures about 720 metres in length (north to south) and about 490 metres wide (east to west) at its widest point.

39. While the site lies within a rural area, the town of Upton-upon-Severn lies approximately 270 metres broadly to the south of the site, on the western side of the River Severn. Hanley Castle lies approximately 540 metres, broadly to the north-west of the site, on the western side of the River Severn. The village of Ryall lies approximately 600 metres, broadly to the south-east of the site.

40. The closest residential properties to the site are those off East Waterside, which lie to the south of the A4104, including The Bridge Bungalow, Holly Villa, Bridge End Cottage, Bridge End House and Elm Cottage, which lie approximately 140 metres to 200 metres to the south of the site. There are also other properties, off East Waterside, which lie approximately 230 metres to 260 metres to the south of the site.

41. Other nearby residential properties lie on the western side of the River Severn. These include Severn Cottages, which lie approximately 250 metres broadly to the south-west of the site. The Pool House caravan park lies approximately 250 metres broadly to the west of the site. Pool House, a Grade II listed property, lies approximately 250 metres broadly to the west of the site. There are also a number of boat moorings, on the western bank of the River Severn, just to the north of Pool House and which lie approximately 220 metres broadly to the west of the site. Just beyond the moorings there are a number of chalets. There are also other residential properties to the west of the River Severn, which include The Cottage, Ballards Farm (Quay Lane Farmhouse) and Bonner's Cottage, which are all Grade II listed buildings that lie approximately 530 metres to 580 metres broadly to the north-west of the site. Further residential properties are situated beyond in Hanley Castle, situated along Quay Lane.

42. Ryall's Court (Ryall Court Farm / Surmans Farm) lies approximately 465 metres broadly to the north-east of the site. Ryall Chase and Rag House lie approximately 420 metres and 470 metres broadly to the east of the site.

43. The historic park and garden at 'The Park' is located on the opposite bank of the River Severn and lies approximately 900 metres, broadly to the north-west of the site. It is not a Registered Park or Garden, a designation that relates to international or national interest. It is, however, of considerable local interest and contributes to the landscape character and cultural and historical understanding of the Parish of Hanley Castle. Croome Court, which is a Grade I Registered Historic Park and Garden is located approximately 2.7 kilometres north-east of the application site.

44. The scheduled monument of 'Boundary Cross at entrance to Quay Lane', lies approximately 900 metres broadly north-west of the site. The scheduled monument of 'Ringwork known as Hanley Castle 520 metres south of the Church of St. Mary', lies approximately 950 metres broadly to the west of the site. There is also the 'Tower of Old Church of St Peter and St Paul 73 metres west of Bridge House' (which is also Grade II\* listed and referred to as 'Tower of former parish church'), and 'War Memorial in churchyard' which lie approximately 350



metres broadly to the south-west of the site. The scheduled monument of 'moated site east of Church' is situated about 1.8 kilometres east of the proposal, in Earl's Croome.

45. The Upton-upon-Severn Conservation Area, which extends from the southern side of the River Severn to the northern side, lies approximately 130 metres broadly to the south of the site. Hanley Castle Conservation Area is located about 1 kilometre broadly to the north-west of the site.

46. There are in the region of 100 listed buildings in Upton-upon-Severn, which at the closest are located approximately 320 metres from the site. This includes 2-6 Church Street, and the Parish Church of Saint Peter and Saint Paul, which are both Grade II\* listed. The Grade II Listed Buildings of Holly Green Cottage and Tudor Cottage, Sunnybank Cottage and Holly Green Farmhouse, the nearest of which is located approximately 660 metres broadly east of the application site.

47. Vehicular access to the application site would be via Ryall Court Lane. There are various residential properties located along Ryall Court Lane, the closest of which is approximately 600 metres broadly to the east of the site. Ryall Court Lane joins the A4104 at a priority junction, which connects to the A38 to the north-east. Ryall Court Lane provides access to Ryall's Court, beyond which are existing farm tracks which lead to the application site.

48. Part of Footpath RP-501 runs south to north through the application site, this ends in a cul-de-sac as the remainder of Footpath RP-501 was extinguished as part of planning permission MPA Ref: 15/000013/CM to facilitate the development of the quarry.

49. Footpath UU-511 runs from the A4104 and runs in a broadly north-easterly direction. This footpath joins Footpath RP-508 as it continues along the eastern boundary of the site in a broadly north-easterly direction before connecting to Bridleway RP-506, which runs broadly in a southerly direction to the A4104. It also connects with Bridleway RP-505, which runs in a broadly north-westerly direction towards the Severn Way. The Severn Way is a long-distance recreational route, which in this location is a Bridleway UU-508 and which runs along the eastern bank of the River Severn. Other public rights of way in the vicinity of the site include Footpath HK-574, which is located on the western bank of the River Severn, and which is located about 270 metres west of the site.

50. The whole of the application site is situated within Flood Zone 3 (high probability of flooding) as identified on the Environment Agency's Indicative Flood Risk Map.

51. The application site is hydrologically linked to the Severn Estuary Special Protection Area (SPA) and Special Area of Conservation (SAC) which are European designated sites. The Severn Estuary is also notified as a Ramsar Site (of international importance) and is also designated as a national level as the Upper Severn Site of Special Scientific Interest (SSSI), which is located approximately 34 kilometres south-west of the site.

52. There are a number of statutory and non-statutory wildlife designated wildlife sites within 2 kilometres of the proposal. This includes the Upton Ham SSSI, which is located about 430 metres broadly south of the application site on the western bank of the River Severn. Earl's Croome Meadow SSSI is located about 1.2 kilometres broadly to the north-east of the site. The Brotheridge Green Meadows SSSI is situated approximately 1.5 kilometres west of the proposal.

53. The River Severn Local Wildlife Site (LWS) lies approximately 165 metres to the west of the proposal with the Pool and Mere Brooks LWS lying about 255 metres broadly to the west of the site. The Stocks Yatt Meadow LWS lies approximately 870 metres broadly to the south of the site. The Brotheridge Green Disused Railway LWS and the Brotheridge Green Meadows & Boynes Coppice LWS lie approximately 1 kilometre and 1.6 kilometre broadly to the west of the site. The Smithmoor Common & Meadows LWS lies approximately 1.75 kilometres broadly to the east of the site.

54. The ancient woodland of Cliff Wood and Barnes' Rough are located approximately 1.3 kilometres broadly to the north of the site. Beyond which is Severn Bank Wood ancient woodland, located approximately 1.6 kilometres broadly north of the proposal.

55. The application site comprises approximately 11.4 hectares of agricultural land, of which approximately 8.3 hectares would be BMV agricultural land (Grades 2 and 3a). Approximately 3.1 hectares would be Grade 3b agricultural land.

56. Malvern Hills Area of Outstanding Natural Beauty (AONB) National Landscape is situated about 4.7 kilometres west of the application site, and the Cotswolds AONB National Landscape is situated approximately 7.2 kilometres broadly south-east of the proposal, with Bredon Hill, which forms part of the Cotswolds AONB National Landscape also designated as a SAC and National Nature Reserve (NNR).

57. Clifton Quarry (MPA Ref: 15/000006/CM, Minute No. 947 refers), which is an existing sand and gravel quarry operated by Tarmac, is located about 3.3 kilometres broadly north of the application site; and Saxon's Lode Quarry (Ref: 07/000053/CM), which is an existing quarry that has been worked out and is undergoing restoration and Ryall House Farm (MPA Ref: 15/000012/CM, Minutes No. 940 refers), an existing quarry and processing plant operated by the applicant are located approximately 1.6 kilometres broadly south-east of the proposal.

## Summary of Issues

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

- Alternatives
- Worcestershire's landbank of sand and gravel reserves
- Location of the development

- Best and Most Versatile (BMV) agricultural land
- Traffic, highway safety and public rights of way
- Landscape character and visual impacts
- Historic environment
- Residential amenity (including noise, dust, air quality, human health and contaminated land)
- Water environment including flooding
- Ecology, biodiversity and geodiversity
- Restoration and aftercare of the site
- Impact upon festival land
- Economic impact

## Planning Policy

### National Planning Policy Framework (NPPF)

59. 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.

60. 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). 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”*.

61. 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.

62. 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.

63. 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.

64. 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.

65. 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 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport

- Section 11: Making effective use of land
- Section 12: Achieving well-designed places
- 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

### **The Development Plan**

66. 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 Minerals Local Plan and the adopted South Worcestershire Development Plan.

67. 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.

68. 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 Minerals Local Plan (Adopted July 2022)**

69. The Worcestershire Minerals Local Plan was adopted by the County Council on 14 July 2022 and replaces the minerals policies in the County of Hereford and Worcester Minerals Local Plan. The policies that 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 9: Lower Severn 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 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

### **South Worcestershire Development Plan (Adopted February 2016)**

70. The South Worcestershire Development Plan covers the administrative areas of Worcester City Council, Wychavon District Council and Malvern Hills District Council. The South Worcestershire Development Plan policies that are of relevance to the proposal are set out below:

Policy SWDP 1: Overarching Sustainable Development Principles  
Policy SWDP 2: Development Strategy and Settlement Hierarchy  
Policy SWDP 4: Moving Around South Worcestershire  
Policy SWDP 5: Green Infrastructure  
Policy SWDP 6: Historic Environment  
Policy SWDP 21: Design  
Policy SWDP 22: Biodiversity and Geodiversity  
Policy SWDP 23: The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)  
Policy SWDP 24: Management of the Historic Environment  
Policy SWDP 25: Landscape Character  
Policy SWDP 28: Management of Flood Risk  
Policy SWDP 29: Sustainable Drainage Systems  
Policy SWDP 30: Water Resources, Efficiency and Treatment  
Policy SWDP 31: Pollution and Land Instability  
Policy SWDP 32: Minerals  
Policy SWDP 39: Provision for Outdoor Community Uses in New Development  
Policy SWDP 40: Waterfronts

### **Draft Planning Policy**

#### **Emerging Worcestershire Mineral Site Allocations Development Plan Document (DPD)**

71. 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).

72. Site options proposed by landowners and mineral operators were submitted in response to formal ‘calls for sites’ carried out between 2014 and 2018. A further ‘call for sites’ ran from 16 January 2020 until 13 March 2020. This

call for sites was an opportunity to promote potential sites for mineral extraction, processing or supporting infrastructure for consideration in the preparation of the Minerals Site Allocations DPD.

73. 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 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.

74. The “Preferred Options” draft will be accompanied by a Sustainability Appraisal that will consider the potential economic, social, and environmental effects of the DPD. It will inform the DPD by helping to maximise its benefits and avoid or minimise potential adverse effects. A Sustainability Appraisal Scoping Report, the first stage of the Sustainability Appraisal process, sets the framework against which the DPD will be appraised. Consultation on the Sustainability Appraisal Scoping Report took place from 28 June 2021 to 9 August 2021.

75. Consultation on the “Preferred Options” draft is scheduled to take place in Quarter 2 - Quarter 3 of 2023, with the Pre-Submission Publication consultation scheduled to take place in Quarter 3 - Quarter 4 of 2024. The emerging Mineral Site Allocations DPD is expected to be submitted to the Secretary of State for Levelling Up, Housing and Communities for independent examination in Quarter 1 of 2025.

76. The emerging Mineral Site Allocations DPD has not, therefore, been subject to consultation, tested at examination, or adopted by the County 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 emerging Worcestershire Mineral Site Allocations DPD should be given very limited weight in development management terms in the determination of this application.

### **Emerging South Worcestershire Development Plan Review**

77. Worcester City Council, Wychavon District Council and Malvern Hills District Council are reviewing the South Worcestershire Development Plan. The South Worcestershire Development Plan Review will cover the period to 2041. The ‘Preferred Options’ consultation version of the South Worcestershire Development Plan Review was consulted on from 4 November to 16 December 2019. An Additional Preferred Options (Focused on Sustainability Appraisal) Consultation (Regulation 18), was consulted upon from 1 March to 19 April 2021.

78. The next step is to produce a Publication Consultation (Regulation 19) following which the South Worcestershire Development Plan Review would be submitted to the Secretary of State for Levelling Up, Housing and Communities for independent examination. The Secretary of State would then appoint an independent Planning Inspector to assess the ‘soundness’ and legal compliance of the plan.

79. The Regulation 19 publication draft of the South Worcestershire Development Plan Review is scheduled for public consultation in November /

early December 2022. Following the consultation, a detailed timetable will then be drawn up to submit the plan for examination by an independent inspector.

80. Having regard to the advice in the NPPF, Section 4, as the South Worcestershire Development Plan Review is still at an early stage of preparation, only limited weight should be applied to the policies.

81. The South Worcestershire Development Plan Review policies that, for the avoidance of doubt, are of relevance to the proposal are set out below:

Draft Policy SWDPR 1: Employment, Housing and Retail Requirements  
Draft Policy SWDPR 2: The Spatial Development Strategy and Associated Settlement Hierarchy  
Draft Policy SWDPR 3: Strategic Transport Links  
Draft Policy SWDPR 4: Green Infrastructure  
Draft Policy SWDPR 5: Historic Environment  
Draft Policy SWDPR 7: Health and Wellbeing  
Draft Policy SWDPR 11: Employment in Rural Areas  
Draft Policy SWDPR 25: Design  
Draft Policy SWDPR 26: Biodiversity and Geodiversity  
Draft Policy SWDPR 27: The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)  
Draft Policy SWDPR 28: Management of the Historic Environment  
Draft Policy SWDPR 29: Landscape Character  
Draft Policy SWDPR 32: Management of Flood Risk  
Draft Policy SWDPR 33: Sustainable Drainage Systems  
Draft Policy SWDPR 34: Water Resources, Efficiency and Treatment  
Draft Policy SWDPR 35: Amenity  
Draft Policy SWDPR 36: Air Quality  
Draft Policy SWDPR 37: Land Stability and Contaminated Land  
Draft Policy SWDPR 38: Minerals

### **Emerging Upton-upon-Severn Neighbourhood Plan**

82. Upton-upon-Severn Town Council submitted an application to Malvern Hills District Council on 10 December 2014, to designate the parish of Upton-upon-Severn as a Neighbourhood Area. This was subject to consultation between 9 January 2015 and 20 February 2015. On 5 March 2015, the application for the designation of the area defined by the boundaries of Upton-upon-Severn Town Council, as a Neighbourhood Area for the purpose of neighbourhood planning was approved by Malvern Hills District Council.

83. Neighbourhood plans must meet certain 'basic conditions' and other legal requirements, as set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended), before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.

84. Notwithstanding the above, whilst the parish of Upton-upon-Severn remains designated as a Neighbourhood Area, the Town Council have advised



Malvern Hills District Council that at the present time they no longer wish to develop a Neighbourhood Plan.

85. The emerging Upton-upon-Severn Neighbourhood Plan has not been tested at examination and has not been subject to a referendum or adopted by Malvern Hills District Council. Should the Town Council wish to proceed with the Neighbourhood Plan in the future, then there would be further stages of consultation on the document prior to submission to the Secretary of State. 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 Upton-upon-Severn Neighbourhood Plan should be given very little weight in development management terms in the determination of this application.

## **Other Documents**

### **Worcestershire Green Infrastructure Strategy (2013 – 2018)**

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

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

88. The Strategy considers the key to planning and managing Green Infrastructure in minerals extraction and restoration is to consider the site in its context. This includes considering the features of the site and the networks of habitats, sustainable transport routes and water courses that surround it. It notes that the robust mechanism for delivering Green Infrastructure through mineral extraction and restoration is still to be established, but modern planning permissions for mineral workings require a restoration and aftercare scheme. The Strategy also notes that many operators are sympathetic to environmental enhancement, which is supported by the Minerals Products Association. It, therefore, considers that it is likely that there is significant potential to incorporate Green Infrastructure concepts within a wide range of restoration schemes.

### **Planning for Health in South Worcestershire Supplementary Planning Document (SPD)**

89. The South Worcestershire Planning for Health SPD was adopted in September 2017, and primarily focuses on the principal links between planning and health. The SPD addresses nine health and wellbeing principles, one of which is 'air quality, noise, light and water management'. The SPD seeks to

address issues relating to air quality, noise, light and water management, and sets out guidance on how these matters can be improved via the planning process. The SPD relates to a number of policies in the adopted South Worcestershire Development Plan, including SWDP 1: 'Overarching Sustainable Development Principles', SWDP 4: 'Moving Around South Worcestershire', SWDP 5: 'Green Infrastructure', SWDP 21: 'Design', SWDP 28: 'Management of Flood Risk', SWDP 29: 'Sustainable Drainage Systems', SWDP 30: 'Water Resources, Efficiency and Treatment', SWDP 31: 'Pollution and Land Instability', and SWDP 39: 'Provision for Outdoor Community Uses in New Development'.

#### **South Worcestershire Design Guide SPD**

90. The South Worcestershire Design Guide SPD was adopted in March 2018 and provides additional guidance on how the South Worcestershire Development Plan design related policies should be interpreted, for example through the design and layout of new development and public spaces across South Worcestershire and is consistent with planning policies in the adopted South Worcestershire Development Plan, in particular Policy SWDP 21: 'Design'.

#### **South Worcestershire Water Management and Flooding SPD**

91. The South Worcestershire Water Management and Flooding SPD was adopted in July 2018 and sets out in detail the South Worcestershire Councils' approach to minimising flood risk, managing surface water and achieving sustainable drainage systems. This applies to both new and existing development whilst ensuring that the reduction, re-use and recycling of water is given priority and water supply and quality is not compromised. It relates to policies SWDP 28: 'Management of Flood Risk', SWDP 29: 'Sustainable Drainage Systems', and SWDP 30: 'Water Resources, Efficiency and Treatment' of the adopted South Worcestershire Development Plan.

### **Consultations**

92. The applicant states that they have undertaken a programme of community involvement in relation to the proposed development during July 2017 to March 2020. Engagement has included stakeholder meetings with District Council and County Council Planning Officers, County Councillors, the Ramblers Association / Malvern Hills District Footpath Society, and Ryall North Quarry Community Liaison Group (which includes representatives from Worcestershire County Council, Malvern Hills District Council, Ripple Parish Council, Upton-upon-Severn Town Council, Earls Croome Parish Council and Hanley Castle Parish Council). In addition, a public exhibition was held on 24 May 2018 at Upton-upon-Severn Town Hall between 14:00 to 20:00 hours. 29 individuals attended the exhibition together with officers of the County Council. No written comments were received as a result of the exhibition. The applicant states that verbal comments received by company representatives during the exhibition were generally positive insofar as the proposed landform capable of being a rowing lake, would make a positive contribution to the economy of Upton-upon-Severn, with only 1 negative comment being received with regard to the proximity of the proposed quarry to the town of Upton-upon-Severn.

93. Worcestershire County Council, as the MPA, carried out public consultation on the planning application in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as amended by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 from 19 June 2020 until 31 July 2020. Following the consideration of comments that were received, the MPA wrote to the applicant requesting further information in respect of the ES, in relation to a number of matters including archaeology, ecology, soils, agricultural land quality, noise and heritage. In accordance with Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as amended by The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020, the MPA carried out public consultation on this further information from 10 December 2021 until 14 January 2022.

94. Following the consideration of the comments that were received on the further information, the MPA wrote to the applicant requesting further information in respect of the ES, in relation to a number of matters including biodiversity and aftercare. In accordance with Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the MPA carried out public consultation on this further information from 3 June 2022 to 4 July 2022.

95. The comments below summarise the latest comments from consultees; and summarises all the letters of representations received on all the above consultations combined.

96. **County Councillor Allen** states that he does not wish to comment on the application at the current time, as he is a member of the Planning and Regulatory Committee, which may have to consider this application, and he wishes to hear all the evidence before forming an opinion.

97. **Upton-upon-Severn Town Council** fully supports the application and recommends approval, stating that this application would advance the sand and gravel extraction into Fish Meadow, which is an important venue / campsite for two annual music festivals in Upton-upon-Severn. The Town Council is keen that the additional mineral extraction is phased carefully to minimise disruption to the festivals, which contribute considerably to the local economy. With this in mind, the Town Council recommend that the additional extraction into Fish Meadow is phased to commence after the summer festivals are over i.e., September 2022 onwards, and avoiding the summer seasons in subsequent years.

98. **Ripple Parish Council** comment that they recognise that the County Council is finalising the emerging Worcestershire Minerals Local Plan [now adopted by the County Council and forms part of the Development Plan] which assesses future needs. The emerging Worcestershire Minerals Local Plan does not identify individual sites but does indicate the Lower Severn Corridor as having mineral deposits.

99. In relation to the policies of the County of Hereford and Worcester Minerals Local Plan, the currently worked area of the Ryall North Quarry site is identified

as a “Preferred site” but a significant area of proposed extraction is only designated as having “identified sand and gravel deposits”. Consequently, Ripple Parish Council consider that Policy 2 of the County of Hereford and Worcester Minerals Local Plan [now superseded by the adopted Worcestershire Minerals Local Plan and does not form part of the Development Plan] is a consideration in determining this application.

100. With regard to the emerging Worcestershire Mineral Site Allocation DPD, the ‘Call for Sites’ document identifies the application site for mineral development. However, the Parish Council understands that the emerging Worcestershire Mineral Site Allocation DPD will not be evaluated and adopted until the overarching Worcestershire Minerals Local Plan is approved and adopted. Therefore, Ripple Parish Council conclude that the designation of specific sites identified in the ‘Call for Sites’ stages cannot be assigned to the emerging Worcestershire Minerals Local Plan [now adopted by the County Council and forms part of the Development Plan] at this time and, therefore the Mineral Site Allocation DPD should be attributed less weight than the County of Hereford and Worcester Minerals Local Plan [now superseded by the adopted Worcestershire Minerals Local Plan and does not form part of the Development Plan]. In drawing up the emerging Worcestershire Mineral Site Allocation DPD, they note that paragraph 204 c) of the NPPF (2019) [now paragraph 210 c) of the NPPF (2021)] requires the safeguarding of mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas, there must not be an assumption that they must be worked.

101. By extending the site to the south, the proposal would significantly add to the mineral requirements of the area and utilise current infrastructure in place for the shipping and distribution via the River Severn to the Ryall House Farm processing and distribution plant (MPA Ref: 15/000012/CM). Ripple Parish Council have no objection to this element of the proposal.

102. Ripple Parish Council are wholly opposed to the use of landfill as part of the restoration process of mineral sites, so they support the restoration to a lake. Ripple Parish Council consider the wording of the proposal to create a lake with the potential to be used as a rowing lake to FISA standards is significant. The applicant provides examples of lakes of this standard elsewhere in England. Desktop research of these sites via webpages indicate that all attract significant subsequent infrastructure in terms of cafes, clubhouses, parking and road infrastructure in support of their facilities in order that they may be essentially self-sufficient in their operation. This requires significant on-going capital investment and operating costs.

103. Ripple Parish Council understand that the current application is essentially a mineral extraction application and that whilst its determination must consider the restoration proposals, the Planning Practice Guidance (PPG) is most relevant to this application. The guidance indicates that *“separate planning permission is likely to be required for most forms of after-use” and that “applications for after-use will usually be decided by the District Planning Authority”*. The Parish Council consider this application may determine that a lake may be created with the “potential” to be utilised as a rowing lake as stated in the application, but that permission to operate the lake together with any

additional infrastructure in terms of buildings, car parking, highways accesses would require a separate planning application to Malvern Hills District Council post restoration.

104. Ripple Parish Council have commented that Fish Meadow is under normal circumstances a tranquil riverside agricultural pastureland meadow, with public access on designated footpaths and the Severn Way. The meadow is inundated on a few summer weekends to accommodate festivals which bring significant business to Upton-upon-Severn. After a few days the land is returned to its tranquil agricultural setting, the town having benefitted commercially without any permanent loss to the environment, the local population, residents or its agricultural use. Letters in support of the application reference regeneration and sustainability gains for Upton-upon-Severn by the permanent formation of a water sports lake, whilst locally some adverse comments have been expressed on the potential loss of a significant area of Fish Meadow and how that would impact on summer festivals held on the site and potential financial loss to Upton-upon-Severn.

105. It is noted that the application states that the landowner clearly wishes the extended quarry to coexist with festivals both during construction and following the lake formation. To achieve this, the application states that *“the formation of the lake does not prejudice the future viability of the festivals and the landowners retain plenty of land to the east, south and west of the proposed lake for potential festivals”*. The Parish Council note that in response to their comments, the applicant submitted comparative plans illustrating the areas of land currently used for festivals and the land available to be used for festivals post restoration. The Parish Council appreciate the provision of festival land rests entirely as a commercial decision for the landowner, however, they consider that if land not previously used for festivals is part of this proposal, such land should be identified in order that the potential effects on local settlements may be considered.

106. Whilst the Parish Council support the creation of a lake, they note that there is great emphasis in this application in that it must be of a size, shape and overall design capable of utilisation as a 1-kilometre-long professional rowing lake. Consequently, the design of the lake as proposed is imperative, but this does have a material impact on the immediate local environment and the present natural landscape so close to Upton-upon-Severn and its approaches. The currently consented lake restoration proposals under MPA Ref: 15/00013/CM for the Ryall North Quarry site proposes a more traditional and natural looking lake to the north of Upton-upon-Severn.

107. The Non-Technical Summary for planning permission MPA Ref: 15/00013/CM states that the currently consented scheme is *“based upon establishing a lake with a more open area of water to the south which is intended for public access and amenity and would be suitable for fishing, boating and quiet recreational pursuits, and a smaller, narrower and more sheltered body of water for wildlife conservation to the north. The junction of these two areas has been designed to include a narrowing of the area of water to reinforce the separation of the two after uses”*.

108. The requirement for a 1-kilometre rowing lake dictates the restoration of a less natural lake formation to the one currently consented, which potentially could have been enlarged to achieve additional mineral extraction gain. It would also introduce a visual connectivity with the western edges of the conservation area of Upton-upon-Severn itself around the area of the bridge. The new proposals indicate longer-term commercial considerations, and these appear a significant factor in the redesign and siting of the water sports feature. However, the application lacks any projections or forecasts in terms of Draft Business Projection Plans to substantiate the immediate or long-term sustainability of the water sports proposals, other than broad generalisations that it would generate business for Upton-upon-Severn, and from supporting letters that eventually a Charitable Trust would be formed to manage the adopted lake.

109. The ES states *“the positive economic impact of a potential water sports facility are difficult to quantify and a further planning permission would be required”*. The ES indicates that whilst the creation of a water sports facility should be seen as a potential positive benefit, the scale of the economic benefit is difficult to gauge at this time.

110. The baseline proposals that Upton Rowing Club would initially use the lake and construct a Boathouse are not addressed in outline planning terms in terms of projected access, internal access roads or parking or how these proposals may be achieved in an area prone to significant flooding. Ripple Parish Council consider that whilst the extraction and formation of a lake would inevitably bring short-term economic benefits to the locality in terms of employment, the longer-term economic benefits to Upton-upon-Severn’s regeneration and sustainability are difficult to ascertain based on the information available.

111. If the long-term commercial viability of the proposed design cannot be substantiated, it could be argued that an enlargement in shape and form of the present consented lake to the north of the site is more acceptable in design and environmental terms. Ripple Parish Council fully appreciates that whilst the MPA may consider these financial matters should not be dealt with at this juncture as a further detailed planning application to Malvern Hills District Council is required to determine operational and infrastructure issues, the amended lake design and siting is premeditated on the concept of a water sports facility of a particular size shape and design that appears more artificial within the environmental setting than the currently consented lake design.

112. Ripple Parish Council consider that further financial details for subsequent analysis are required to ensure that the water sports lake is financially viable and would result in a net economic gain and offset the environmental changes that would inevitably occur.

113. With regard to conditions to protect aftercare post restoration, the Parish Council note that 5 years of aftercare is proposed for agriculture restoration and 10 years for nature conservation. The Parish Council presume full aftercare of the lake comes under nature conservation, but this needs clarification. The Parish Council consider that approval for operation of a rowing lake would inevitably take time so would expect that a condition for 10-year aftercare of all non-agricultural areas is imposed.

114. Whilst Ripple Parish Council welcome the re-routing of the public footpath to the north-eastern edge of the site, the Parish Council request that the tracks / pathways around the lake are made available to the local community by providing facilities for walkers. The Parish Council are disappointed to note that the landowner would not accept this request indicating that access around the lake would be exclusively only to its users. The Parish Council consider that this is a missed opportunity to make this facility inclusive and beneficial to local residents and the community.

115. With regard to construction and aftercare access, Ryall Court Lane is a narrow road providing access to a number of residents within Ripple Parish. The Parish Council recommend that conditions are imposed to cover the following:

- The movement of heavy plant and equipment into and out of the site is limited to no more than 4 campaigns per annum
- That heavy plant and equipment is escorted along Ryall Court Lane
- That workforce light traffic is limited to approximately 12 movements per day (6 in each direction)
- That all Ryall Court Lane residents are given prior notice of the movement of heavy plant and equipment

116. There is the potential for workforce traffic entering / leaving Ryall Court Lane via the A4104 to utilise the restricted access residential Ryall Road to reach the A38. Ryall Road is used as an unofficial cut through by drivers to avoid queuing at the A4104 / A38 junction. The Parish Council request that a condition is imposed that all plant and daily works traffic must not use Ryall Road.

117. Dust pollution has the potential to be an issue to residents. It is noted from the Dust Management Plan that standard mitigation procedures are to be followed. As a precaution the Parish Council recommend that a condition is imposed requiring materials to be worked damp and that haul routes are maintained and watered during dry spells.

118. The Parish Council consider that community consultation should remain in place throughout the operational period of extraction and restoration. They request that a Section 106 Agreement should be considered to assist financing the redevelopment of the Council owned Ryall Recreation Ground, a public open space available to all residents.

119. If Fish Meadow festivals are to continue during construction, they consider there are Health and Safety issues, and that the area of compensating land stated to be available, should be identified as part of this application as it may encroach upon the amenity value of local residents. The Parish Council recommend conditions are imposed in respect of access along Ryall Court Lane, Ryall Road as well as relating to the period of aftercare, and dust management.

120. **Hanley Castle Parish Council (Neighbouring)** supports the application. They welcome the plans to build the rowing lake as they consider it would be a

real asset to the local community and the outcome would offset any inconvenience caused by the additional 18 months of work.

121. **Severn Stoke Parish Council (Neighbouring)** fully support this application. The Parish Council request that as part of the preparation for this proposal, the planned A38 speed limit and traffic review proposed by County Highways proceeds and includes all the A38 up to the Ketch roundabout in Worcester.

122. The Parish Council previously commented that during the consideration of the application, it was noted that the Parish Councillors were concerned as to additional traffic that would be generated by the water sports facilities but acknowledged that this issue would not really form part of deliberations for this current application. They did consider the visibility splay for access to the site but the County Councillor at that time, reassured Parish Councillors that this would be considered by the County Highways Officer.

123. **Earls Croome Parish Council (Neighbouring)** comment that they recognise that there is a need for continuing aggregates extraction in this area and note that the extension of Ryall North Quarry goes some way to addressing that need.

124. The majority of Earls Croome Parish Councillors support this application to continue aggregates extraction and consider that the restoration to agriculture and a lake suitable for water sports use would, on balance, present an advantage to the town of Upton-upon-Severn from an amenity perspective. The Parish Council consider that a rowing lake such as the one proposed, being one of only a few in the country of that size, would bring competitors, supporters and families to the town, thereby providing limited economic benefit to the wider rural community. They also agree that restoration of this type providing amenity value is certainly preferable to alternative potential uses of the site, such as for landfill purposes.

125. However, the Parish Council remain very concerned that no detailed proposed plans have been submitted to either the MPA or Malvern Hills District Council regarding the rowing lake itself and indeed, no indication as to future commitments regarding who would manage, fund, deliver and maintain such a significant and complex transformation project going forward. The Parish Council had also expected to see at this stage more detailed plans submitted to Malvern Hills District Council showing proposed infrastructure options such as clubhouse, car-parking and importantly details of access / egress to the venue, etc. The Parish Council consider that it is essential that the above detailed proposals are developed as soon as possible in order to minimise delays from the creation of the lake through its seamless transformation into use as a fully operational water sports venue.

126. The Parish Council notes that a 5-year restoration plan is proposed for agricultural aftercare, coupled with a 10-year nature conservation aftercare period. However, in view of the current uncertainty regarding the timescales involved, they request that a 10-year aftercare plan covering all non-agricultural areas of the site should be introduced as a planning condition. Similarly, Parish



Councillors have also expressed concern that, because of the large expanse of open water and the likely timescales involved, appropriate safety measures should be introduced at the site to cover the full duration of the project.

127. Earls Croome Parish Council note that any quarry traffic on and off the site should only be via the A4104. They would also like to draw the MPA's attention to the fact that a number of mature trees have been removed within the existing scheme and looking at the area proposed many more would be lost, therefore the MPA must satisfy themselves that the proposal would not rob the area in the long-term of its flora and fauna.

128. **Malvern Hills District Council** have no objections to the proposal, stating that they support the principle of the proposal, recognising the economic benefits that arise from mineral extraction. The District Council recommend the imposition of conditions regarding landscape mitigation and enhancement; long-term management of the site; minimising the impact upon residential amenity (noise, dust, hours of operation) and tourism; highway mitigation / construction management plan; biodiversity mitigation and enhancement; flooding, surface water drainage and pollution mitigation / enhancement; public rights of way protection / enhancement; minimising the impact upon the waterfront and River Severn; and assessing and minimising the impact upon the ridge and furrow earthworks and undertaking archaeological site investigation and post investigation assessment. Furthermore, the District Council notes that the proposed restoration scheme includes an approved rowing venue and a range of other non-powered water-based leisure activities. They consider that particular attention should be given to ensuring that public access rights to the lake and any new associated buildings / facilities are secured as part of any planning permission issued, for example by appropriately worded legal agreement. Given the proximity of the site to a number of important heritage assets they advise that the MPA seeks the views of the Conservation Officer at Malvern Hills District Council.

129. With regard to the principle of development it appears to them that the proposed workings would be located outside a preferred area for sand and gravel extraction (Policy 1) of the County of Hereford and Worcester Minerals Local Plan [now superseded by the adopted Worcestershire Minerals Local Plan]. Whilst they note that the site is in the Lower Severn Corridor as defined in the emerging Worcestershire Minerals Local Plan [now adopted and forms part of the Development Plan], this Plan has not yet been adopted and it is for the decision-maker to determine the weight attached to adopted and emerging minerals policy balanced against the tests set out at paragraphs 5.3 and 5.4 of the County of Hereford and Worcester Minerals Local Plan [now superseded by the adopted Worcestershire Minerals Local Plan]. This planning application, however, is closely linked to planning application MPA Ref: 20/000015/CM and planning permission MPA Ref: 15/000013/CM and the proposed lake would extend across both sites.

130. The application site does not benefit from a specific landscape designation. However, the site lies adjacent to the River Severn in close proximity to Upton-upon-Severn with part of the site towards its southern extent used in the summer months for a number of outdoor music festivals and associated uses such as car

parking and camping (known locally as Fish Meadow). The surrounding area is also dissected by public footpaths with views of the site available from these public rights of way, Upton Bridge and parts of the surrounding road network. Whilst the proposed development would result in significant alterations to the land, it is noted that the works carried out on the site would be temporary with restoration proposed including a lake and the restoration of the adjacent land to agricultural grassland. In this regard, it is understood that at current rates of sale, aggregate extraction would take place over a 2-year period. Should planning permission be granted for this development, planning conditions should be imposed to control the phasing of both the extraction and restoration of the site.

131. Although no residential properties immediately adjoin the application site it is noted that there are houses located on the higher ground to the west, on the opposite side of the A4104 at East Waterside (including a caravan site) and on the opposite side of the River Severn on the B4211 (including a further caravan park). The MPA should ensure that the operation of the site does not have an adverse impact upon the residential amenity of the occupiers of these properties.

132. There are a number of statutory wildlife designated sites within 1 kilometre of the proposal. This includes the Upton Ham SSSI and Earl's Croome Meadow SSSI.

133. There are also a number of non-statutory wildlife designated sites within 1 kilometre of the proposal, notably the River Severn LWS located immediately to the west of the application site. Further to this, ecological surveys of the site have been undertaken. Previous ecological surveys have identified great crested newts within the currently permitted quarry. No suitable breeding habitat for great crested newts has been identified, but it could be suitable for foraging, commuting and as refugia. It has been concluded that there is a reasonable likelihood of encountering both great crested newts and common toads, both species being protected, within that part of the site not subject to planning permission. Past survey work for birds has identified a small number of wintering species, plus a barn owl roost within a hollow bole of a pedunculate oak. 1 tree has been confirmed as a soprano pipistrelle bat roost. This tree is required to be felled to facilitate the proposed development. The proposed development also has the potential to result in the loss of foraging habitat for 4 bat species, 2 of which have been recorded as present off site.

134. Likely significant impacts were identified with regard to loss of hedgerow, great crested newts, common toads, reed bunting, barn owl and quail, badgers and bats.

135. They note that the applicant advises that an Environmental Management Plan would be produced with the aim to both reduce impacts to non-significant levels on great crested newts, barn owl and quail, badgers and bats, as well as seeking to ensure compliance with nature conservation legislation.

136. It is understood that extraction would take place in a single phase and would be restored to a single waterbody (lake) with reedbeds, conservation wet grassland managed for wildlife and agricultural grassland which would be

managed within an organic cattle farm system. Two species rich hedgerows with trees planted at 50 metre spacings would be reinstated, following existing hedge lines where appropriate. Hedges would have associated drainage ditches alongside. The lake would be designed to create the landform required to make a rowing lake post development. Given this, it would be important to ensure that an ecologist assesses the implications of the development and proposed mitigation measures. Notwithstanding this, ecological mitigation and enhancement measures should be secured by planning condition if planning permission is granted, and they recommend that the applicant / their ecologist be required to submit compliance statements to confirm that the necessary mitigation and enhancement measures have been provided. They note that a single confirmed bat roost tree would be lost as part of the development. The derogation tests should be applied to this aspect of the development.

137. In terms of the transport impact, it is understood that no changes are proposed to the way that the quarry is currently operated with regard to traffic with the applicant advising that no sand and gravel would be sold directly from the site. This matter should be controlled by condition.

138. The site lies wholly within Flood Zone 3. Quarrying sand and gravel is, according to Government's PPG, compatible with the application site lying within Flood Zone 3. Nevertheless, the MPA should ensure that the site is designed to remain operational and safe for users in times of flood, result in no net loss of floodplain storage, and not impede water flows and not increase flood risk elsewhere. Further to this, the MPA should liaise closely with the Lead Local Flood Authority (LLFA) to ensure that surface water drainage is dealt with effectively during a flood event.

139. Upton-upon-Severn Conservation Area at its closest point lies approximately 130 metres away. Further to this, there are a number of listed buildings / structures located in the surrounding area. The District Archaeologist has commented on the proposal, and these are set out separately below.

140. **The Environment Agency** have no objections in principle to the proposed development, subject to the imposition of conditions relating to a groundwater monitoring scheme; a programme of remediation should the groundwater monitoring scheme provide evidence of deterioration to groundwater and surface water flows and quality; and the development being carried out in accordance with the Fish Rescue Plan.

141. The Environment Agency note that they have already provided detailed responses to the previous planning application (MPA Ref: 15/000013/CM) for this large-scale sand and gravel operation at Ryall North Quarry. This included Phases 1 to 4. The proposed development is not hugely different to that assessed for planning permission MPA Ref: 15/000013/CM from a hydro-geological perspective (this included Phases 1 - 4 only). The addition of another phase of working to the south (Phase 5 under current planning application MPA Ref: 20/000009/CM) does not present any further issues than those already considered by the Environment Agency for the application in 2015 (MPA Ref: 15/000013/CM). A lot of the impact concerns were addressed previously, and this updated information reaffirms what was considered and approved then.

142. The findings of the ES from the 2015 application still remain valid and as stated in the current application submission, this assessment identified no likely significant effects regarding geology and hydrogeology which would result from the quarry's operation as long as the mitigation is applied as discussed further below.

143. The ES appears to have identified all likely significant detrimental impacts that may result from the proposed development and that appropriate mitigation is available to avoid and reduce any impacts.

144. The Environment Agency have no reason to doubt the Hydrogeological Assessment as presented and the conclusions. The proposed development indicates that the operational phase of the site would have a 'minor' to 'moderate' potential impact upon the water environment and, therefore, further mitigation measures would be necessary. These mitigation measures are to include locating all mineral stockpiles and permanent structures outside of potential flood risk areas; the discharge of all abstracted groundwater back into the Severn River; and a number of pollution measures relevant to published Pollution Prevention Guidelines. By the implementation of these mitigation measures the significances of potential impacts posed by the proposal is lowered to 'negligible' and 'minor'.

145. Although the application site is located near to the River Severn, this assessment has demonstrated that any impacts upon the surface water and groundwater regimes of the area would not be significant from the Hydrogeological Impact Assessment presented. As suggested in Section 6, the Environment Agency are satisfied that the proposed site operations and subsequent restoration would have no lasting significant impact upon the water environment as long as the mitigation options are implemented.

146. They are in agreement with the Hydrogeological Assessment report that *"in order to mitigate any possible reduction to baseflow of the River Severn by dewatering of the aquifer and interception of groundwater through-flow, it is proposed that discharge of the abstracted water back into the river and / or to the aquifer via infiltration would remove any potential impact. This would reduce the overall significance of potential impacts to 'minor' or 'negligible'"*. The Environment Agency concur with this statement. The Hydrogeological Assessment report has stated that *"on-going monitoring of groundwater levels would identify if conditions during site development vary from predicted conditions and would enable appropriate mitigation measures to be incorporated"* and the Environment Agency also concur with this statement and make further comment on this below.

147. Should planning permission be granted, the Environment Agency would expect to see groundwater monitoring undertaken before, during and after the quarry operations are complete which includes operations within Phase areas 1-5 (the red line boundary). The Environment Agency would like to see trigger conditions set for groundwater levels across the network of boreholes and a mitigation plan of action defined now at this stage appropriate to the risks at the subject site. In view of this, should planning permission be granted, the

Environment Agency recommend the imposition of a condition for groundwater monitoring.

148. Should the ongoing monitoring programme identify any adverse impacts from active quarrying operations, the Environment Agency expect appropriate measures to be implemented to investigate and mitigate against the impact and protect the water environment. The background baseline monitoring data already available from the network of site boreholes (2005 onwards) can be used as a marker to assess and measure any potentially significant changes in the data during the operational phases (Phases 1 to 5) of the quarry works especially during dewatering and drawdown operations.

149. With regard to frequency of monitoring, the Environment Agency consider at least monthly dip (or longer time-series data via continuous measurement with a data logger) monitoring to be a standard frequency for such monitoring during the mineral extraction phase of development.

150. The Environment Agency state they have no hydrogeological concerns in terms of the restoration proposal. With regard to ecological and improving linkages, the Environment Agency note that the further information submission provides clarity on habitat restoration, which they support, and which includes expansion of the reedbed northwards on the western bank; and enlargement of the open water areas on the western bank to increase the interface between reedbed and open water to improve ecological functionality.

151. With regard to flood risk, the Environment Agency note that they have previously commented on fluvial flood risk as part of the previous approval (MPA Ref: 15/000013/CM). Further to the Flood Risk Assessment Addendum submitted in support of the planning application for the above site, the Environment Agency have no objections. The Environment Agency recommend seeking the views of the LLFA on surface water and other sources of flooding.

152. The Environment Agency note that the Flood Risk Assessment Addendum includes updated hydraulic modelling, and that this takes into account current climate change guidance. The Environment Agency have reviewed the analysis of the updated modelling and comparison with 2015 outputs (MPA Ref: 15/000013/CM) and are satisfied that there would be no significant change in fluvial flood risk either at the site, or at downstream locations (including Upton-upon-Severn), as a result of the proposed development. The development should be carried out in accordance with the Flood Risk Assessment.

153. The Environment Agency note that a Flood Management Plan is likely to be critical to future operations at this site. It would inform the general operation of the site and would affect any loading pier and craft moored. The Environment Agency have commented that the MPA may wish to seek to secure a plan via condition in consultation with the County Council's Emergency Planners.

154. The planning application includes, as part of the restoration proposals, creation of a lake suitable for water sports. The NPPF sets out that this is classified as 'water compatible development'. The restoration plans give rise to the likelihood of future development proposals for infrastructure associated with

a water sports facility, such as boat / utility storage and amenity buildings and the provision of access infrastructure and parking. Future proposals should be designed and located appropriately in relation to the floodplain and fluvial flow paths. Where development is proposed to be located in or near Flood Zones 2 and 3 (or modelled 1% climate change extent) such development should be supported with a Flood Risk Assessment that demonstrates that the sequential and exception tests, where applicable, have been met in accordance with the NPPF.

155. In response to the submitted additional information relating to migratory fish and the Habitat Regulations Assessment (HRA) Appropriate Assessment (AA), the Environment Agency confirm that the additional information comprehensively addresses their previous concerns regarding:

- Turbidity, siltation and associated habitat loss and nutrient enrichment
- Potential capture of fish on site during the works
- Clear pathways / mechanisms are in place to enable fish / eels to return to the river

156. The Environment Agency state that the proposed Fish Rescue Plan may be secured by an appropriately worded condition. The Environment Agency confirm that they have no further comments to make on the HRA AA.

157. **Worcestershire Regulatory Services (noise and dust)** have no objections to the proposal, subject to the imposition of appropriate conditions. They are satisfied that the methodology in the submitted Noise Assessment which is in accordance with noise impact assessment techniques set out by the PPG under the 'Minerals' heading and that measured noise levels and calculated predictions are robust. They note that the quarrying process has two distinct noise generating phases of working. These are site preparation and subsequent site restoration, the second being sand and gravel extraction / restoration. Noise would also be generated by vehicle movements.

158. The initial phase of site preparation would involve topsoil stripping. The impact of this work would be similar to what would be expected from the preparation of a normal construction site for housing development and is short in duration when considering the life expectancy of the quarry. Following this phase, it is expected that noise impact would reduce to levels not dissimilar to the existing climate with the occasional identifiable noise being heard from use of machinery associated with the extraction, due to the fact that the quarrying is undertaken below ground level.

159. They are, therefore, satisfied that there would be no adverse noise impacts associated with the proposed workings provided that the quarry operator adheres to good industry practices and maintains all plant and machinery to a high standard. Worcestershire Regulatory Services also confirm that the proposed operating hours of 07:30 to 18:30 hours Mondays to Fridays inclusive, and 07:30 to 12:00 hours on Saturdays are acceptable.

160. With regard to dust, Worcestershire Regulatory Services are satisfied with the methodology and conclusions of the Dust Impact Assessment and, therefore, recommend that the prevention strategies recommended in the submitted Dust Impact Assessment are made conditional should planning permission be granted. They also advise that conditions should be imposed relating to the seeding of any bunds and disturbed areas as soon as reasonably practicable; mineral extraction and handling including using water suppression and minimising drop heights for material transfer; levels of stockpiling to be monitored and logged daily and subject to water suppression as required; and various controls surrounding transportation and plant, including covering of all barge loads; unsurfaced roads damped down using a water bowser, on-site speed controls; and maintaining plant and equipment in good working order.

161. **Worcestershire Regulatory Services (contaminated land)** have no objections to the proposal, stating that they have reviewed the submitted information in relation to contaminated land matters, and conclude that there are no concerns or foreseeable concerns / recommendations to be made.

162. **Worcestershire Regulatory Services (air quality)** have no adverse comments to make with regard to the proposals and local air quality management.

163. **County Public Health Practitioner** has reviewed the application and have no objections to the proposal.

164. **Natural England** have no objections to the proposal, stating that the proposed development would not have significant adverse impacts on designated sites.

165. Natural England state that the following SSSIs lie within the locality of the application site:

- Upton Ham SSSI
- Brotheridge Green Meadows SSSI
- Earl's Croome Meadow Site of SSSI

166. Based on the plans submitted, Natural England considers that the proposed development would not damage or destroy the interest features for which these sites have been notified and therefore they have no objection.

167. SACs are designated for rare and vulnerable habitats and species, whilst SPAs are classified for rare and vulnerable birds. Many of these sites are designated for mobile species that may also rely on areas outside of the site boundary. These supporting habitats may be used by SPA / SAC populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SPA / SAC species populations, and proposals affecting them may therefore have the potential to affect the European site. The wild birds designated as part of the Severn Estuary SPA are an example of these mobile species. The land within and around the

application site is of importance for some the SPA's wading wild bird species, as such a HRA.

168. Natural England have reviewed the updated HRA AA produced by an ecological consultant on behalf of Worcestershire County Council, as competent authority, which includes an update in response to the Environment Agency's original comments on migratory fish. They note that they are a statutory consultee on the AA stage of the HRA process. The Council's AA concludes that the proposal would not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that they concur with the AA conclusions, providing that all mitigation measures are appropriately secured should planning permission be granted.

169. National England note the additional information provided by the applicant has fully addressed concerns raised by the Environment Agency with regard to the impacts on the migratory fish species associated with the Severn Estuary SAC and Ramsar Site and, therefore, wish to make no further comments on this matter.

170. With regard to amended restoration proposals, Natural England fully support comments made by Worcestershire County Council's ecology team and Worcestershire Wildlife Trust to ensure that ecological damage is minimised and full value is gained from the proposed biodiversity enhancements. In particular they support comments raising concerns related to the potential disturbance to the reedbed habitat along the western bank of the rowing lake and the suggestion to create buffer to ensure potential impacts from nearby recreational activities should be minimised as much as possible. They welcome the proposal to secure these mitigation measures by means of suitable planning conditions.

171. Natural England have also provided further general advice including consideration of protected species and other natural environmental issues.

172. In terms of BMV agricultural land and soils, Natural England notes that the proposed development would extend to approximately 14.6 hectares, including approximately 11.4 hectares of agricultural land, of which approximately 8.3 hectares is BMV agricultural land; namely Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system.

173. Natural England have reviewed the submitted 'Soil Depth and Handling Methodology Note in Response to Natural England – Ryall North' document and can confirm that the further information provided has satisfactorily addressed their previous concerns regarding soils, land quality and reclamation.

174. Natural England have confirmed that it would be appropriate to specify agricultural as an after-use and for the physical characteristics of the land to be restored, as far as practicable, to what they were when last used for agriculture.



175. Natural England are satisfied that the soils and ALC information constitutes a satisfactory record of the pre-quarrying physical characteristics of the land within the application site boundary.

176. **The Forestry Commission** wish to make no comments, as there are no Ancient Semi Natural Woodland or Plantations on Ancient Woodland sites in the area.

177. **The Royal Society for the Protection of Birds (RSPB)** have stated that their comments refer to the overall restoration scheme proposed in the context of the current application; this wider consideration is essential here given the integrated restoration approach proposed across all phases of the extraction. The RSPB are sympathetic with the combined after-use for recreation (rowing) with nature conservation. However, they would like to see better use of the opportunity to integrate the elements of the restoration scheme to deliver greater biodiversity and ecosystem service benefits, whilst maintaining the integrity of the rowing course

178. The intention of the restoration scheme is to provide a recreational facility (rowing lake) with relatively limited nature conservation / biodiversity habitats. They would like the proposed provision of the biodiversity habitats reviewed in order to increase their value.

179. The combined use would need careful planning to ensure integrity of the nature conservation elements without impact on the recreational purpose. This in particular should address two elements i) minimising the potential disturbance to wildlife caused by the rowing activity and events, and ii) the integration of habitats to the north and west of the lake. They consider that no value for breeding waders would be gained from the areas of wet grassland to the east of the lake due to a) proximity of the access track causing disturbance and b) the planting of trees to its immediate eastern edge which would provide convenient perches for predators e.g., corvids. They also consider that the wet grassland proposed to the west (north of the reedbed) measuring approximately 1 hectare is too small and also would suffer disturbance from the access track.

180. The RSPB note that there are some inconsistencies and inaccuracies in the Restoration Proposal and the Ecological Impact Assessment in relation to habitat extent and definition, consistency with habitat descriptions, and in relation to the Proposed Outline Restoration Scheme Plan, which makes the specific intent difficult to review.

181. The RSPB propose an alternative approach to the nature conservation elements. In proposing this, they intend to improve biodiversity opportunity without requiring major revisions to the plan. In essence this alternative approach promotes the western side of the lake as a nature conservation zone, whilst retaining ecologically sensitive restoration and aftercare to the remainder. They propose that the access track to the west of the lake should be removed as it is not needed for the purposes of rowing on the lake (for example the Redgrave Pinsent Lake at Caversham, near Reading) and restrict public access into the area, especially given the events use immediately to the south. This would limit disturbance to wildlife which would be critical, e.g., to breeding success. Use

fencing to delineate and prevent access to the conservation areas. Have a buffer area, particularly along the shore south of the reedbed combined with fencing to prevent access to this area of the shore especially during events. Clearer zoning is needed on the Proposed Outline Restoration Scheme Plan to indicate shoreline access.

182. They also suggest that the reedbed should be expanded to include the area proscribed as wet grassland immediately to the north, to make a more viable size (the wet grassland being too small to function properly on its own). Ensure hydrological integrity by including appropriate water level management structures. The open water within the reedbed shown in the plan should be reshaped to increase the interface between reed and open water. Re-profile the reed fringe to the western lake edge to provide greater interface and remove interrupting grass areas along the shore to provide continuity. As part of this, the shelving shallows should be extended.

183. The RSPB also have other observations, stating that the 'agricultural land' component proposed is shown as being MG4 meadow grassland. This is to be welcomed as a damp floodplain grassland which with sensitive management (low stocking or cut for hay) could be beneficial for flora and in undisturbed areas species like lapwing. However, this is only likely to be successful in the event of appropriate soil water level management to maintain conditions. Furthermore, this grassland type would be damaged by its use for events (noted on plan for the south-west area). This should be compensated for with meadow grassland increased elsewhere in the scheme. Assuming these events are to continue on the identified space, the wet grassland is better incorporated elsewhere, e.g., to the north of the lake (area marked as 'diverse dry grassland merging into wet grassland'). This may also be less prone to disturbance and thereby provide nesting habitat for waders.

184. The Ecological Impact Assessment assesses the proposed restoration to provide a 300% increase in Section 41 habitats (note: broad habitat is listed as a Habitat of Principal Importance under Section 41 of the 2006 Natural England and Rural Communities (NERC) Act), and therefore a significant net gain. This is a contentious assessment. A created waterbody does not automatically conform to the definition of the Section 41 habitat, particularly as this one is intended for recreational use; and, as noted above the extent of agricultural land (meadow grassland) is unlikely to conform to the Section 41 definition without a) soil water management and b) avoidance of use for events. The Ecological Impact Assessment also does not contain any up-to-date site data, the most recent being 15 years old. Furthermore, the list of species of the on-site Valued Ecological Receptors includes a number of species that are not associated with the habitats present now or proposed, including willow tit and tree pipit.

185. **Worcestershire Wildlife Trust** have no objections to the proposal. They note the contents of the various associated documents and in particular the commentary set out in the 'Comparison of Existing 2015 and New 2019 Restoration Designs with Suggestions for Meaningful Enhancements' by AEcol, the revised Non-Technical Summary, the combined CEMP / LEMP, and revised restoration scheme plan.

186. While Worcestershire Wildlife Trust continue to have significant reservations about the proposed use of the lake as a rowing venue. Whilst not part of this application, this is explicitly the intention set out in numerous places within the documents and supporting comments from other consultees. The revised restoration scheme proposals and CEMP / LEMP do offer some helpful comfort around biodiversity enhancement opportunities for the site. Accordingly, provided that the changes and conditions suggested by the County Ecologist can be implemented, and on the proviso that the proposed mitigation and enhancement come forward in full, they do not wish object to the application. Worcestershire Wildlife Trust are content to defer to the opinions of the County Ecologist for all on-site biodiversity considerations for this application.

187. **The County Ecologist** has no objections to the proposal, subject to the imposition of conditions regarding an updated restoration scheme (correcting mislabelling), 10-year aftercare scheme for all created / restored habitats (apart from the agricultural grassland, which shall be in aftercare for a 5-year period), a monitoring report in relation to statement of compliance for habitat creation and the development being carried out in accordance with the submitted combined CEMP / LEMP.

188. The County Ecologist states that they have examined the amended restoration scheme proposals, however, it appears that the plans have not been updated to reflect their comments in relation to mislabelling. These plans need to be corrected for the restoration plans to make sense but are content that this is secured by condition if planning permission is granted. Namely:

- The drawing titled: 'Proposed outline restoration scheme proposed application area', numbered: RN - RX / 1B revision M, dated April 2022, on which the legend lists MG4 wet grassland and MG9 Agricultural Grassland – MG9 is not agricultural grassland
- MG4 and MG9 are colour-coded backwards on drawings numbered: RNE – RD / T2 (pg2), RNE – RD / T4B (pg5), RNE – RD / T5B (page 10), and RNE – RD / T5C (page 11) (all dated April 2022)
- Drawing numbered: RNE – RD / T5C, titled: 'Restoration details – Proposed restoration scheme aftercare' shows all three grassland types in 5 year aftercare, in contradiction of the statement in section 7.2 of the further information submission and section 6.1.1 of the combined CEMP / LEMP version 10, which states *"the improved grassland will be subject to 5-year aftercare and all other habitat will be subject to 10-year aftercare" (according to the MPA's request)*.
- Drawing numbered: RNE - RD / T4C, titled: 'Restoration details permitted scheme existing and proposed trees and hedgerows', revision B, dated April 2022 (page 6) states 2,837.96 metres (445.7 metres reinstated plus 2,392.26 metres proposed) of hedgerow was in the consented scheme for the existing extraction area, while the comparison table submitted for re-consultation lists only 2,707 metres of hedgerow in the consented scheme. This under-represents the 'biodiversity loss' of hedgerow habitat on the existing extraction area by

131 metres (the difference between the schemes is -690 metres and not -559 metres)

- The comparison spreadsheet lists 44 hedgerow trees in the proposed scheme, but section 2.2 of the further information response specifies 48 hedgerow trees (by adding up the numbers against each species). 48 represents a good increase from the original scheme

189. The County Ecologist welcomes the improved species composition of hedgerows and increased number of hedgerow trees to create future 'important hedgerows' (according to the Hedgerow Regulations 1997). This goes some way to compensating for the significant reduction in total length of hedgerow between the consented and proposed schemes.

190. The 10-year aftercare period (for all habitats apart from agricultural grassland) with defined criteria for success and clear monitoring objectives lend confidence that the proposed habitats can be created. It is important to make clear that aftercare only begins when it is agreed with the MPA that restoration is complete (this is likely to be done phase by phase). The County Ecologist recommends that monitoring reports produced by the Restoration Manager and appointed consultant ecologist detailing progress against the listed criteria for success are secured via a suitably worded planning condition requiring submission of the report or a statement of compliance to the MPA at least every other year throughout the aftercare periods.

191. The County Ecologist is satisfied that the application sets out measures to secure greater biodiversity enhancement than previously secured for the whole site, and therefore does not wish to object to the application, subject to adjustments and planning conditions to ensure that ecological damage is minimised, and full value is gained from the proposed enhancements. The County Ecologist goes on to state that they are satisfied that any losses in the proposed restoration scheme compared to the currently consented restoration scheme are more than compensated for by gains in other habitats, measured either in size or quality (for example: less MG9 grassland, but more MG4 grassland; less 'marginal vegetation,' but more swamp / reedbed, shorter total hedgerow length, but increased species richness and more hedgerow trees). The 10-year aftercare period and LEMP with reporting / compliance statements at regular intervals also give greater confidence that the restoration objectives would be achieved. The submitted habitat comparison table is considered to illustrate measurable net gains for biodiversity between the consented and proposed restoration schemes.

192. The County Ecologist states that under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the MPA must consider likely impacts on European Protected Species, including great crested newts and bats, which have been identified on the Ryall North Quarry site and are reasonably likely to be impacted by quarrying activity. This consideration is framed by the 'three tests' given in Regulation 53 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019:

- Test 1: Is the development needed for public health and safety or other imperative reasons of overriding public interest incl. those of a social or economic nature or preventing serious damage to property?
- Test 2: Are there any satisfactory alternatives (resulting in no or at least less risk of harm)?
- Test 3: Is there adequate compensation provided to maintain the favourable conservation status of the population of the species?

193. The County Ecologist states that the first test must be judged by the planning officer under delegated powers or by the planning committee. To pass this test there must be a high degree of need for the development / quarry, resulting in beneficial results in the local area that are likely to be in accordance with local planning policy requirement(s). The County Ecologist notes that this test should have already been passed when determining the original application.

194. The County Ecologist states that as an ecologist, their advice is limited to considering the second and third tests. With regard to Test 2, they cannot see any viable alternative to loss of the great crested newt breeding pond and terrestrial habitat and the loss of two trees hosting bat roosts (Tree 11 within this application site, and Tree 3 to the north of the application site, within Phase 4 of planning permission MPA Ref: 15/000013/CM and pending application MPA Ref: 20/000015/CM). The County Ecologist considers that it is not feasible to quarry around these features and preserve their ecological functions, and the works proposed could not be done differently or elsewhere.

195. With regard to Test 3, as demonstrated by the fact that European Protected Species licences have already been granted for the pond and Tree 3, they consider there to be adequate mitigation measures proposed to compensate for the losses, and the proposals are suitable for Natural England to grant a European Protected Species licence for the second tree (Tree 11). In fact, if the mitigation measures are all implemented as described, the quarry and site restoration have potential to enhance the local bat and great crested newt populations. The County Ecologist notes that the combined CEMP / LEMP outlines the mitigation strategies already agreed / to be agreed with Natural England.

196. In response to the submitted additional information regarding migratory fish and the HRA AA, the County Ecologist states that they are content with the submitted Fish Rescue Plan and consider that the updated HRA AA is now complete. The County Ecologist has no further comments to make on the HRA AA.

197. **Malvern Hills AONB Unit** state that they do not wish to comment on the application.

198. **The County Landscape Officer** has no objection to the proposal on landscape grounds, subject to the imposition of a condition requiring a 10-year aftercare period for all nature conservation areas (all areas excluding agricultural

grassland). The County Landscape Officer concurs with the findings presented in the submitted Landscape and Visual Impact Assessment (LVIA), which has captured the key issues concerning impacts to landscape and visual character and the wider setting of the site. Recent work identified several matters focused on landscape mitigation / restoration for mineral sites in the Ryall area as part of a wider Worcestershire County Council study. The key points for consideration at Ryall are:

- Potential damage to the hydrology and habitat value of the site and the wider meadow / wetland habitat, through loss of grassland, on-site drainage channels / wet ditches, hedgerows and scattered trees. The post development strategy should aim to restore the sites' pastoral land use for seasonal grazing and haymaking, strengthening the nature conservation value of the meadows through the use of floristically enhanced seed mix
- Compensatory planting would be required to mitigate for any loss of trees and hedgerows with the outcome leading to a net gain for landscape and biodiversity. This should include the restoration of linear wetland habitat and its associated linear tree cover, linking new wetland habitat with existing wetland habitat off-site
- Potential impact to identified receptors and opportunities to mitigate for visual sensitivity including through the strengthening and management of existing tree belts along the site's southern boundary and river side boundary
- Any bunds constructed during site operation should be removed as part of the site restoration in order to return the landform to its characteristic flat profile. Any soft landscaping should conform to the linear form characteristic of the area
- All mitigation and restoration strategies should be informed by an approved LVIA, a Landscape and Ecological Management Plan (LEMP) and should aim to deliver multifunctional landscape assets following the established principles of green infrastructure design

199. The submitted landscape plan and statement set out how the southern extension would be dominated by a recreational lake. This, on the one hand, marks a major shift in land use and therefore a significant impact to the baseline landscape character. However, the measures described in the restoration statement set out a good compromise between the new function and delivery of landscape and ecological enhancements. Overall, the restoration plan would achieve most of the key measures identified in the Worcestershire County Council study.

200. Typically, they would recommend that landscape measures are delivered as part of a LEMP through a suitably worded condition. In this case they defer to recommendations made by the County Ecologist given that the main aims should be ecology focused, which by association, would deliver landscape enhancements.

201. The improved hedgerow species mix and additional hedgerow trees, while not fully compensating for the reduced provision between the consented and proposed scheme, is nonetheless a welcome enhancement.

202. The County Landscape Officer note the discrepancies across a number of documents, as set out in detail by the County Ecologist, and the County Landscape Officer concurs with their recommendations to provide corrections.

203. The County Landscape Officer notes the further information submission, which clarifies that the trees to be removed as part of the proposal are not veteran or ancient trees, and they are satisfied with the applicant's assessment and reasoning concerning the status of the trees.

204. **The Herefordshire and Worcestershire Earth Heritage Trust** comment that they have found no recognition in the proposal of the loss of geological heritage that this action would cause. The Severn River Terraces are a geological formation of internationally recognised importance. They provide a record of events in the Quaternary that are of significant scientific interest.

205. The proposed development would not only destroy geological evidence, but it would also expose it, providing opportunities for scientific investigation, subject to the co-operation of the developer. Specifically, the development of the access road to the site descends through part of the Holt Heath Sand and Gravel member (type of geological formation), which could result in some exposure of this sediment. Extraction would extensively expose and remove large volumes of the Worcester Sand and Gravel member (type of geological formation), both at the surface and where it underlies the alluvium.

206. In compensation for this loss, the Earth Heritage Trust request that they be given the opportunity to inspect any exposures of the Holt Heath deposits that are created by the building of the track before the deposits are covered up. They also request that during the extraction process, the company should be required to cooperate with geologists requesting access to record the structure of exposed faces within the river terraces and extract samples for the purposes of research including removal and dating of rock samples from the exposed (and otherwise undisturbed) face. The Earth Heritage Trust request 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, that they look out for large mammal and other remains among the sand and gravel; and layers of darker material that might contain a variety of smaller plant and animal remains.

207. Situated on the fringes of Upton-on-Severn and with public rights of way traversing it, the site is ideal for the location of public information boards. As part of the restoration exercise, the Earth Heritage Trust request that information about the aggregate extracted and its geological history should be included on strategically placed information boards.

208. In response to the further information submission, they note the applicant has provided a response to the above comments and wish to make no further comments provided the applicant adheres to their stated commitments.

209. **Historic England** state that they do not wish to offer any comments on the application and recommend that the MPA seeks the views of the District Council's / County Council's specialist conservation and archaeological advisers, as relevant.

210. **Historic Buildings & Places (formerly The Ancient Monuments Society)** have stated that despite their name they cover listed buildings not scheduled monuments and is not a consultee on applications for mining and extraction, except where listed buildings are directly involved. If the site embraces areas of archaeological sensitivity, they commend the observations of the Council for British Archaeology (CBA) which is a mandatory consultee alongside them and Historic England, who advise the Secretary of State on applications for Scheduled Monument Consent.

211. **The Gardens Trust** do not wish to comment, thanking the MPA for consulting them on the application which may affect Croome Court, a historic designated landscape of national importance, which is included by Historic England on the Register of Park and Gardens of Historic Interest at Grade I. They have considered the information provided in support of the application and consulted with their colleagues in the Hereford and Worcester Gardens Trust. Based on this, they confirm that they do not wish to comment on the proposals at this stage. They also state that this does not in any way signify either their approval or disapproval of the proposals.

212. **The Hereford and Worcester Gardens Trust** have no objections to the proposal.

213. **The Council for British Archaeology (CBA)** comment that the significant archaeological potential of all sand and gravel extraction is well known and documented. Gravel terraces and islands in the Severn Valley are known to have attracted people from prehistoric and later periods, borne out by the significant number of listed buildings (e.g., in Hanley Castle and Upton-on-Severn), scheduled monuments and, registered historic parks / gardens in this area. The 2019 Archaeological Written Scheme of Investigation highlights the following:

- Evidence of prehistoric activity within 5 kilometres of the proposal site
- Small numbers of Bronze Age to Late Iron Age finds and landforms within extraction area
- Roman remains and artefacts found near existing and proposed extraction areas, including burials
- Anglo-Saxon remains at Saxon Lode Farm and Severn End
- Medieval activity in the vicinity of existing extraction and proposed extension areas
- Potential for later remains including from World War II

214. The proposed extension area would bring extraction workings closer to the River Severn and Upton-upon-Severn. 19th century maps show the site to have been mainly agricultural flood-plain water-meadows with flood alleviation banks.



The lack of later development suggests a potentially high likelihood that buried archaeology relating to earlier periods might have survived.

215. The CBA recognises the national need for continuing supplies of available minerals, and the preference for extending existing sites rather than creating new mineral sites and has no comment to make on the principle of the site extension in this instance. However, the processes of extraction and restoration are of interest to the CBA in terms of the archaeological potential. There is a necessity for a clear archaeological strategy in order to secure the archaeological potential within the proposed extension area to the existing quarry.

216. The CBA respects the work undertaken by the applicant and accepts their point that mineral extraction differs from other development, with the result that archaeological investigations “*could only be carried out post-determination*”, following soil-stripping ahead of extraction. As a precaution however, they draw attention to the relevant NPPF paragraphs relating to “*proposals affecting heritage assets*” and the PPG on both mineral extraction and the historic environment.

217. Notwithstanding the thorough Written Scheme of Investigation, the CBA is concerned that, overall, the ES tends to side-line heritage matters, prioritising other factors. The CBA specifically have reservations about the lack of consideration for potential impacts on the historic landscape by the design and purpose of the proposed rowing lack in the restoration scheme.

218. The Heritage Assets Plan appears to minimise historic features and lacks clarity. Only 13 assets in total are annotated on the plan, whereas Historic England mapping shows significantly more sites in all the categories itemised. For example, Severn End is indicated with 1 key point whereas there are 8 separate listings there. This creates a distorted impression of the collateral impact on the historic environment. Such an approach might be acceptable if the plan offered an explanation in the key. The plan also seems simplistic and limited in scope and detail. For example, heritage assets at Hanley Castle and Holly Green / Ryall are not included. It also does not reflect the large number of listed buildings, and two scheduled sites in Upton-on-Severn. To the east of Ryall’s Court, this plan shows a small area at the edge of the plan, described as ‘Croome Landscape Park’, annotated as a registered Historic Park or Garden. This is puzzling, since the extensive Grade I registered Croome Court Park is not at this location, being at a distance to the north-east. The area on the plan seems not to be part of any designation and it is unclear why it has been so marked.

219. In view of the above, the CBA make the following recommendations:

- The CBA request that the Non-Technical Summary is revised and expanded to realistically clarify the applicant’s approach to heritage matters
- The CBA recommends that the Heritage Assets Plans are re-drawn, to reflect the true extent of heritage assets over a greater area, to take

account of their setting. If listings are to be grouped together as one entry, this should be clarified in the key

- The CBA seeks written confirmation of commitment by the applicant to carry out in full any recommendations made their archaeological consultants and the County Archaeologist before and after determination of the planning application
- The application should confirm that reporting and analysis of heritage matters would be made freely publicly available in order to comply with the NPPF

In response to further information being submitted by the applicant addressing the points above, the CBA state that they have no further comments on this application.

220. **The County Archaeologist** has no objections to the proposal, subject to the imposition of conditions requiring a programme of archaeological work including a Written Scheme of Investigation, and achieve deposition, and an interpretation scheme for archaeology.

221. The County Archaeologist comments that the site is an area of low-lying meadow, liable to flooding, that is recorded as having been enclosed under an Act of Parliament in 1856. A former water meadow is recorded directly to the east of the site and this monument may continue into the site. The 1st Edition Ordnance Survey map, dated 1886, indicates that a channel still visible in the north of the site was once more extensive, running from the eastern bank of the River Severn through the site, in a south-westerly direction, before meeting the channel that runs through the east of the site. Although this channel appears as an earthwork on Environment Agency Light Detecting and Ranging (LiDAR) imagery, it appears dry on current mapping and aerial photographs. Further earthworks of this system may lie within the site. An intersecting pattern of earthworks, across the site are recorded as aircraft landing obstacles.

222. Given the archaeology uncovered during the excavations of Ryall North Quarry (MPA Ref: 15/000013/CM) directly to the north of the application site, there is good potential for buried archaeology to continue south into this site. Below-ground archaeology across the entire site may be buried under thick alluvium, as it is in the existing quarry to the north. Conventional methods of evaluation, such as trenching and geophysics, on this site may not be practical. The geological investigation to the north further highlights the potential for waterlogged, organic archaeological features and deposits within the alluvium itself, which would be destroyed on its removal. This could also have a negative impact and affect drainage patterns of surrounding waterlogged archaeological features and deposits within the vicinity. The site also has some potential for Pleistocene geological deposits that contain palaeo-environmental remains. Pleistocene deposits are important, even if no artefacts or organic remains are recovered because their presence is used to inform local and region deposit models.

223. The County Archaeologist states that they agree with the conclusion of the Heritage Assessment that continuation of the methodology currently being

implemented for the below-ground archaeology would adequately manage the archaeological resource in the existing quarry and proposed new extension area. Previously the County Archaeologist commented that the documentation submitted with the application was out-of-date, having not been updated since 2015. The applicant has now provided an updated Written Scheme of Investigation. The archaeological background in the Heritage Assessment has not been updated to include the more recent findings excavated in the last 3 years, however, the County Archaeologist notes that this has been detailed in the updated Written Scheme of Investigation.

224. It should be noted that the earthworks recorded in the application site would need to be fully recorded before soil stripping operations commence. This would need to be incorporated into the Written Scheme of Investigation. The non-designated heritage assets are recorded in the Historic Environment Record and described in the Heritage Assessment. They consist of earthworks / structures associated with World War 2 defence and some earlier possible water meadow channels. Whilst not of a significance to curtail development, they should be fully recorded prior to their loss to partial off-set the harm of their loss.

225. The County Archaeologist also recommended that a strategy for on-site and digital interpretation of the archaeology be incorporated into the requirements for the restoration. The existence of the public rights of way adjacent to either side of the area proposed for extension offers a particularly good opportunity for on-site interpretation. The updated information in the Written Scheme of Investigation demonstrates that the archaeology uncovered so far has been of high significance, including a Romano-British cemetery and settlement site. The whole river terrace is a significant archaeological landscape, and this site is adding valuable evidence to the understanding of its changing morphology and use from prehistory into modern times. There would be considerable public benefit to disseminating this understanding as widely as possible. It may be appropriate for this interpretation to cover a number of themes including archaeology, ecology, landscape and geodiversity.

226. **The District Archaeologist** comments that the proposed development may affect heritage assets of known archaeological significance. The 'historic environment' encompasses all those material remains that our ancestors have created in the landscapes of town and countryside. It includes all below and above-ground evidence including buildings of historic and architectural interest. The proposed development area has a recognised archaeological potential relating to the Palaeolithic to Medieval periods. Excavation to the north of the proposed development area has identified Bronze Age as well as Iron Age artefactual evidence. Given the scale of the development, and the anticipated archaeological potential, the likely impact on the historic environment caused by this development may be offset by the implementation of a conditional programme of archaeological works. This would comprise the strip, map and sample excavation of the proposed development area in line with the applicant's Written Scheme of Investigation.

227. The District Archaeologist wishes to defer to the opinion of the County Archaeologist and confirms that the conditions that the County Archaeologist

suggests should be imposed on any grant of planning permission to secure archaeological mitigation.

228. **The District Conservation Officer** has no objections to the proposal, stating that the assessment of impact and associated heritage information is generally agreed. The proposals are considered to be an acceptable change to the wider setting of the Conservation Area in Upton-upon-Severn and the various built heritage assets.

229. **Sport England** comment that they have read the further information provided by the applicant, which essentially rebuts the various points Sport England had raised in their previous response (set out below). Sport England state they are disappointed, as this appears to be a missed opportunity to secure some added value from this proposed development. Whether or not there is a case for pushing on this further in respect of the relevant policies to be considered in this case is clearly a matter for the MPA to consider. Ultimately, Sport England have previously advised that they are supportive of the proposals to create the rowing lake, and that position is unchanged, notwithstanding that they regret the position being taken by the applicant regarding infrastructure and the missed opportunities to provide a facility with public access for walking and cycling. Sport England's original comments are set out below.

230. Sport England do not wish to miss a significant opportunity to promote opportunities for recreational walking, running and cycling, as this ties in with their strategic approach to developing long-term habits for physical activity and to apply their thinking on creating active environments, particularly at a time like this when physical and mental well-being are being tested by the coronavirus (COVID-19) pandemic. They consider that it is worth exploring with any owners whether public access to walk and cycle around the lake could be provided or not. If it then transpires that the owner explains why this could not be possible for particular reasons, then they would regretfully accept this. That would then give Sport England an evidenced basis to pull back from this request.

231. In essence, if some form of public access around the lake could be achieved, Sport England would support this. If this was explained to not be possible for particular reason(s), then whilst this would be seen by Sport England as a missed opportunity to promote wider opportunities for physical activity, they would still wish to support the application, as this would create a much-needed new waterbody for rowing. In other words, securing public access is desirable, but not a pre-requisite of Sport England's support for the planning application.

232. Sport England states that the application falls within the scope of the PPG, as the proposal relates to development which creates opportunities for sport (such as the creation of a body of water bigger than two hectares following sand and gravel extraction).

233. Sport England assesses this type of application in light of the NPPF and against its own planning objectives, which are Protect - To protect the right opportunities in the right places; Enhance - To enhance opportunities through better use of existing provision; Provide - To provide new opportunities to meet the needs of current and future generations.

234. Sport England note that planning consent has been previously granted at the site for aggregates extraction under MPA Ref: 15/000013/CM. The application states that the recreation value of the previously approved lake was limited by its overall size although it was always the intention to promote its use for informal recreation activities. The current proposal to extend the area of minerals extraction to the south of the existing consent, proposes a resultant increase in the size of the waterbody, together with design changes to accommodate a linear water feature in excess of 1 kilometre long.

235. The application documentation also explains that the proposed restoration includes the diversion of a public right of way, and the creation of a new public right of way allowing continuation of the public right of way network to both sides of the final lake restoration. In addition, an area of land to the west of the lake is identified as a showground / festival space. It is understood that a local music festival is hosted in the vicinity of the site.

236. It is understood that the proposal has been designed in consultation with British Rowing and Upton Rowing Club who reside nearby at the marina and have aspirations for establishing a new boathouse in proximity to the proposed lake and the River Severn. The application is accompanied by a letter of support from the Rowing Club.

237. Sport England notes that the Worcestershire Minerals Local Plan address issues of health and well-being, access and recreation. They note that the Worcestershire Minerals Local Plan states *“access to high-quality green space can contribute to physical and mental health, providing opportunities for outdoor physical activity and places to relax. Evidence suggests access to green space can also improve community cohesion, reduce levels of anti-social behaviour, improve social interaction, help build self-esteem, and contribute to social mobility. Measures which help increase everyday physical activity as part of daily routines can be a low or no-cost options for improving health and well-being which can result in long-lasting behaviour change”*. This is consistent with the guidance in Section 8 of the NPPF regarding promoting healthy and safe communities. Sport England also note that the Worcestershire Minerals Local Plan also refers to delivering a positive lasting legacy through to delivering high-quality restoration of minerals sites.

238. Policy MLP 3 [now Policy MLP 7: ‘Green Infrastructure’ of the adopted Worcestershire Minerals Local Plan] relates to Green Infrastructure which includes reference to taking account of site-specific opportunities to enhance the rights of way network and provision of publicly accessible green space amongst other aspects. The reasoned justification to this policy refers to there being some cases where site-specific considerations may indicate that protecting and enhancing networks of Green Infrastructure can be maximised by focusing on specific components, which is the case here in respect of creating a waterbody suitable for various water sports.

239. The reasoned justification also emphasises the importance of future management of Green Infrastructure to deliver community benefits. This is particularly relevant to this case in respect of the management of the waterbody

and its associated infrastructure to continue to provide an asset, both for specific sports uses, and also to maintain its wider benefits for other forms of physical activity.

240. Policy MLP 5 of the emerging Minerals Local Plan [now Policy MLP 9: 'Lower Severn Strategic Corridor' of the adopted Worcestershire Minerals Local Plan] relates to the Lower Severn Strategic Corridor, and the site falls within this corridor. The emphasis in this policy relates to creating wetland habitats, conserving and enhancing wetland patterns and creating accessible semi-natural green space incorporating information or routes which increase legibility and understanding of the area. Whilst the creation of a new waterbody is not expressly mentioned, the proposal relates well to part c) and could be seen to be complementary to parts a) and b).

241. Policy MLP 20 of the emerging Minerals Local Plan [now Policy MLP 30: 'Access and Recreation' of the adopted Worcestershire Minerals Local Plan] gives support to proposals that protect and enhance rights of way and public access provision. In this case, existing public rights of way are to be diverted around the lake, and the provision of the lake provides a new asset for sport and recreation that is consistent with this policy, subject to addressing the detailed points raised below.

242. In terms of the strategic / local need for the facility, Sport England has consulted British Rowing who advise as follows:

- *British Rowing have been working with the club and CEMEX in the planning of this project and will be supporting separately. The West Midlands Region identified some years ago that it required access to multi-lane training water and British Rowing has been involved in trying to provide this. The significance is also that a full 1,000 metre course can be provided which is very useful for both training and some regional and national competitions. Neighbouring regions will utilise this facility as only Peterborough can provide a similar course and that is usually fully booked. British Rowing is working to achieve other multi-lane courses, but this Upton Rowing Club proposal provides a tangible and deliverable project and not just an aspiration. The Upton Lake will also provide six racing lanes, whereas Peterborough has only four*
- *The site is well placed in the South Midlands with good connections to the North, South, South-West and Wales by nearby motorways and trunk roads*
- *The lake has been designed by reference to the technical specifications of FISA for water depth, bank gradient and the width of the racing lanes. It also has ample space both above the start line and beyond the finish line, and a recirculation lane to allow crews to proceed to the start without impeding racing crews on the course. In addition, the site will continue to give access to the River Severn as an alternative body of water for endurance training and for long distance races. The River Severn at Upton-upon-Severn affords unbroken stretches of 10 miles upstream towards Worcester and 5 miles downstream towards Tewkesbury*
- *It is intended to relocate Upton Rowing Club adjacent to the lake and the river. They currently have no security of tenure within the marina from where*

*they operate. Two site options are available on Fish Meadow. British Rowing Facilities are working with the club on which of the two options will be best for the club and will seek to obtain the necessary planning permissions hopefully next year. Plans will not be submitted to the Local Authority until the CEMEX's applications have been determined by the County Council. In respect to boat launching, this is also being looked at by the club with British Rowing, and access to the river and lake can be achieved using pontoons. Environment Agency and Canal and River Trust are also being consulted as part of the process. The club is a young but thriving organisation that has outgrown its current facilities. The constraints of working out of the marina means that only a limited number of boats can be launched simultaneously meaning that regattas and head races are not possible. The addition of the lake will provide an excellent regatta course as well as training for Upton Rowing Club members and also visitors, for example, on training camps. The club and British Rowing have been proactively seeking to utilise this once in a lifetime opportunity to provide the club with the additional facilities they require to secure their future*

- The club and British Rowing have agreed that sufficient car parking and road access is available to the club for both club use and for events. The County Council has recently completed a major road improvement scheme on the adjacent A4104 to lift it above flood level. This has provided a wide access bay onto Fish Meadow with good sight lines and ample room for a car and boat trailer to pull into the access without blocking the highway. As mentioned above, the landowners are very supportive of the club and its relocation intentions. There is already a metalled track leading from the road access point to the location(s) where the boathouse would be built*
- The West Midlands Rowing Region fully supports the creation of any multi-lane training and competition rowing water, and this particular scheme will attract usage from its clubs and those of the neighbouring regions which should ensure its ongoing revenue costs are met year on year. There is a huge demand for multi-lane racing throughout the country, and specific training is needed for this type of racing*
- The club is keen to maximise the use of the lake by inviting other water sports to be involved. Contact with the National Governing Bodies of canoeing, triathlon, dinghy sailing, and swimming has already been made and well received*
- An important factor is also that the River Severn, the River Avon, and the River Wye which serve many of the region's clubs, are susceptible to flooding in the winter months, and to some extent adversely affected by summer droughts, so any lakes of this kind that are become available for rowing will ensure year-round training and racing for clubs that are adversely affected*

243. In addition, Sport England has also discussed the proposal with the University of Worcester who comments as follows:

- We trust, having a specialist water facility adjacent to the town will generate much needed commerce for local business*

- *They understand that Upton Rowing Club have future ambitions to build a boathouse adjacent to the river and lake. This seems sensible, especially if built with inclusive design and the capacity to also support recreational visitors to the lake facility. As Upton-upon-Severn is already geared up to deliver large, popular, annual events like the Jazz Festival [Upton Blues Festival], the area under discussion already enjoys access / egress off the main road. This is important to any rowing or boat sport club, wishing to tow trailers on / off site*
- *From a university perspective, The University of Worcester Rowing Club now enjoys a positive relationship with Worcester Rowing Club. The facilities are within walking distance of all campuses and the majority of student accommodation, so student access is easy. However, flooding through the city centre has become more frequent, to the extent the University of Worcester Rowing Club spent majority of their training time last season (prior to pandemic lockdown) travelling to Gloucester Canal. The University of Worcester believe the proposed lake facility may still accommodate rowing, with a river level up to 2 metres higher than is experienced in the city centre. To be able to continue training, would prove extremely beneficial to continuance of water sport training locally, for all clubs. Were this to prove the case, the University will remain in discussion with Upton Rowing Club about the possibility of collaborating in some way to have capacity to access the proposed boathouse*

244. Given the above, Sport England state that it is clear that there is a need for the proposed sports facility. Sport England also add that Malvern Hills District Council have recently jointly commissioned (with Worcester City Council and Wychavon District Council) a new outdoor sports facilities strategy, and would include within the scope of the study, an assessment of rowing facilities, in line with Sport England's Assessing Needs and Opportunities Guidance. Whilst this assessment has not yet commenced, and so the findings are not yet known, the inclusion of rowing recognises that there is demand for facilities for water sports in the area and that there are existing club's where the facility needs for participation in water sports warrants such assessment.

245. Sport England, therefore, considers this proposal addresses an identified need for this facility type and has the potential to be of benefit to the development of water sports, and in particular to rowing. Sport England wish to see this accorded an appropriate weight in the decision that is reached on this application.

246. Sport England state that the comments from British Rowing do not raise any concerns regarding the design and specification of the water space. Sport England also supports the proposals to create the new waterbody in principle. Notwithstanding this, it is requested that further consideration is given to securing the provision of additional infrastructure that would be necessary to facilitate the use of the lake for water sports. It is understood that Upton Rowing Club have aspirations to develop a boathouse at the lake, which would require a suitable area of land to be identified, ideally on the west side of the lake to service use of both the lake and the River Severn, subject to identifying a suitable location(s) for launching boats, etc. It is noted that the outline restoration



plan identifies an area on the western side of the lake to be restored to agricultural land and use for shows and festivals, and so it is not clear if this area would be suitable or whether an additional area of land would be required. They also query whether the potential site for the boathouse could be identified on the submitted plan.

247. No access road to the west side of the lake is shown on the plan. A suitably hard surfaced access would likely be required to provide a means of towing boats to and from the boathouse. The existing access from the south onto the A4104 would appear to potentially provide a means of access to the east side of the lake. However, this would need to be extended around the lake to the west side if that is where a boathouse is proposed to be located. The boathouse would need service connections to serve changing rooms / toilets, etc. They therefore request that suitable provision be put in place to provide a serviced area of land for which a boathouse could be constructed. A suitably sized car park area would also be required to service the use of the lake, since a facility of this size would attract users from outside the local area. It is therefore requested that the outline restoration plan be developed further to address these points.

248. In addition, it is requested that consideration is given to seeking a Section 106 contribution from the applicant towards the capital cost of developing a boathouse. At this stage, in the absence of a feasibility assessment, it is not possible to provide a detailed costing for the project. However, Sport England have referenced some guidance from British Rowing entitled 'Facilities requirements for a Sliding Seat Rowing Facility', which helpfully provides an indication of possible boathouse costs.

249. Given the current financial uncertainties from the coronavirus (COVID-19) pandemic, and there being limited opportunities for grant assistance from sporting bodies (and where there are appropriate grant programmes, they tend to require successful applications to provide match funding), securing essential infrastructure and a financial contribution from the developer towards the cost of delivering a boathouse is, therefore, considered to be justified in this case. Sport England would therefore request that this is given significant weight in assessing this application.

250. With regard to active design / active environments, Sport England have commented that the proposed waterbody provides a significant opportunity to provide a new resource for recreation and physical activity beyond its use for various water sports. The circular route around the lake, which measures approximately 2.9 kilometre is potentially really positive for supporting walking, running and cycling. Further details are requested for the detailed design of the pathway in terms of its width, surfacing, gradients, etc., to encourage access by all groups (including those with physical disabilities) and to reduce conflicts between users.

251. Consideration should be given to Sport England's design guidance, titled: 'Active Design', Designing for Physical Activity – routes and wayfinding, and Designing for Physical Activity – Outdoor Spaces'. Sport England also have referenced their Draft Design Handbook entitled 'Enabling Physical Activity by Design' which is being made available now to help inform projects where there

are significant opportunities to secure added value for physical activity. For example, some simple but effective infrastructure such as wayfinding posts from Upton-upon-Severn and Ryall (potentially secured as public realm enhancements as part of a Section 106 Agreement), distance marker posts around the lake, benches to rest and dwell, etc. which would help improve the use of the facility. Access to toilets and car parking would also benefit recreational users and potentially increase footfall bringing potential new users to facility. The circular route around the lake should be suitably surfaced with all users in mind including those with physical disabilities.

252. Other supporting facilities that can increase footfall and potentially provide a means of income to support water sports and/or maintain the facility could include a small kiosk or café, and possibly a boat / cycle hire facility. Sport England provides guidance on developing activity hubs.

253. In addition, it is noted that the site is located in close proximity to the National Cycle Network Route 45, which currently terminates nearby in Ryall. It is considered that the development provides a significant opportunity to link up to the existing cycle network via the A4104 to Ryall.

254. Whilst the proposed routes of the diverted public rights of way are noted, it is considered that more direct pedestrian / cycle connection between the southern part of the lake and the village or Severn Way should be provided where possible. This would then encourage more people to access the lake. A better plan to more clearly show how pedestrians and cyclists could access the lake would be helpful. It is also unclear if the access track is intended to be used for emergency vehicles, maintenance etc. so this should be clarified and annotated to make this clear.

255. Given the above comments, Sport England recommend that further details are requested, ideally prior to determination of the application or else by means of a suitably worded planning condition(s) to agree the design and specification of the path around the lake and to provide some additional information on associated infrastructure including wayfinding, street furniture, associated public facilities etc.

256. In terms of management and maintenance, Sport England comment that there is no information from what they have seen, to set out how the facility is to be managed and maintained (and by whom) in the long-term once the site is restored and the lake is first brought into use. There is a brief reference to a 5-year maintenance period by the applicant, but little / no detail as to what this would entail, and what happens after that. They query whether this has been considered. Given the emphasis placed on future management in the Development Plan policies, they think that some further information on this would be essential. It is requested that further details are provided to ensure this is appropriately resourced. Ideally, further details should be provided now with the application, and at the very least the details and their implementation should be secured, either by planning condition, or within the terms of a suitably worded Section 106 Planning Agreement.

257. Sport England supports the application in principle as they consider it meets their objective 'Provide' as set out above. For the reasons explained, it is recommended that some further information is provided as set out above in relation to the detailed design of the facility, ideally by securing further details now prior to determination of the application, or else to secure further details by planning condition.

258. As set out above, Sport England recommends that a suitable Section 106 Agreement is secured to towards the delivery of necessary supporting infrastructure including a boathouse and associated facilities in order to activate the use of the proposed water space. It is therefore recommended that consent is not approved until such time as a suitably worded agreement has been completed.

259. The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

260. **The Campaign for Protection of Rural England (CPRE)** state that they do not object to the principle of the proposal provided the imposition of conditions prohibiting the use of powerboat craft; prohibiting mooring of vessels other than sailing or rowing boats, including house boats and other vessels used as residential or holiday accommodation; and prohibiting the erection of any building ancillary to leisure without further planning consent.

261. They state they have no particular comments on this proposal, other than that the future use of any lake needs to be the subject of a more specific planning application, to be made in due course. Powerboat racing would come within water sports, but gives rise to severe nuisance, whereas rowing or sailing would not. The CPRE are concerned that any such lake could be used as a marina, a sort of floating caravan park. Accordingly, they recommend conditional approval, with a condition that after restoration is completed any lake is not to be used for any non-agricultural purpose without a further planning consent.

262. CPRE further comment that they have heard rumour of someone wanting to provide a marina or houseboat moorings, which would be unacceptable development in a rural area away from any settlement. Whether these actually need to be conditions or are inherent in what is being applied for does not matter to the CPRE, provided the result has that effect.

263. **The British Horse Society** comment that they see this as an opportunity to include equestrians in the restoration plans in addition to the provision of a lake for water sports. This is particularly needed as there is a gap in the bridleway network in this area. They understand the applicant is not prepared to include rider access in the restoration scheme, but the British Horse Society's comments remain unchanged.

264. **The Ramblers Association** have no objections to the proposal, they note the public rights of way issues and in particular the impact on Footpath RP-501

have been acknowledged by the applicant. These issues have been addressed in the submitted application documents and drawings. In view of this, they are content with the proposals and have no objections to the application.

265. They note that there would ultimately be some enhancement of opportunities for walkers with the provision of additional footpath access.

266. **The Open Spaces Society** state that they do not wish to comment on the application.

267. **The County Footpath Officer** has no objections to the proposal, subject to the applicant noting the matter below and adhering to their obligations to the public rights of way.

268. The County Footpath Officer comments that the proposals and amended restoration plan would affect Upton-upon-Severn Footpath UU-511 and Bridleway UU-508, Ripple Footpaths RP-501, RP-508 and Bridleway RP-505 and Earls Croome Bridleway EA-547. They also note that the proposal would affect the new paths which have been created as part of the previous application (MPA Ref: 15/000013/CM).

269. The proposals would require legal amendments to the public rights of way in the area. This should be completed to confirmation stage before any development affects the public rights of way are started. In view of this, an application should be made to the County Council's Public Rights of Way Team as soon as possible following any grant of planning permission.

270. The County Footpath Officer requests that the public rights of way remain open where possible, however, if the development cannot be carried out without temporarily closing the public rights of way for safety of the public during the works, then an application should be made at least 8 weeks in advance to the County Council's Public Rights of Way Team.

271. **The County Highways Officer** has no objection subject to the imposition of a condition requiring a CEMP for highways to include measures to ensure that any vehicles leaving the site do not deposit mud on the public highways, details of site operative parking areas, material storage and operatives' facilities, hours delivery vehicles would be permitted to arrive and depart, and a highway condition survey.

272. The County Highways Officer states that the existing access arrangements would be maintained for the lifetime of the proposed development, with access to the site via Ryall Court Lane off the A4104. Access would be restricted to vehicles delivering or collecting heavy plant, site staff or fuel deliveries. Site access proposals were approved as part of the previous Ryall North Quarry (MPA Ref: 15/000013/CM), and the current application proposals remain within the agreed parameters. A review of Crashmap shows that no accidents have occurred within the vicinity of the site access since the original planning permission was granted (under MPA Ref: 15/000013/CM). Daily use of Ryall Court Lane would be by staff only, with a maximum of 12 movements per day, which is not considered to be severe.

273. Quarrying of the site would be undertaken in a series of 'campaigns' with no more than 4 campaigns undertaken per year. During the campaign daily movements to and from the site would account for no more than 12 movements per day in light commercial vehicles. An exception to this is the arrival and departure of 4 low loaders at the start of the campaign, and a fuel delivery vehicle every 2 to 3 days. The current proposals are not seen to exacerbate traffic movements at the quarry, along Ryall Court Lane or at the site access junction.

274. The applicant proposes that all residents of Ryall Court Lane and Court Lea would be advised of the dates and times that low loaders would be using Ryall Court Lane to access the quarry. Furthermore, an escort vehicle would be used in front of the low loader convey, with two-way radios, to ensure the lane is not being used by pedestrians or other motorists.

275. No rights of way currently cross the application site as Footpath RP-501 has been permanently stopped up to facilitate the approved quarrying scheme to the north. On completion of restoration, it is proposed to divert the whole footpath to a new alignment to the east.

276. The County Highways Officer has undertaken a robust assessment of the planning application and consultation responses from third parties and considers that there would not be a severe impact and, therefore, there are no justifiable grounds on which an objection could be maintained.

277. **The Commercial Boat Operators Association (CBOA)** have stated that they represent water freight carriage by barge on the UK's inland and estuarial waterways and is accepted by the Government as the representative industry body and is the prime trade organisation involved in sustaining and promoting freight carriage on our waterways for economic and environmental reasons. The CBOA fully supports this planning application for this additional phase of the aggregate extraction at Ryall. The river is under-utilised for freight, Thomson River Transport Ltd (who operate the barges on behalf of CEMEX for Ryall North Quarry) being the only regular freight operator on the River Severn. Occasional retail operation coal carrying vessels may also use the river from time to time in addition to pleasure traffic.

278. The proposed use of barges for transport of the material is ideal. Barge transport is environmentally beneficial, more efficient, produces significantly less emissions and noise and is less hazardous than would road transport. Barge transport at Ryall has been used successfully for several years and this should clearly continue. Government policy is to encourage the shift of freight transport to non-road means wherever possible and this application is a good example of how this can be achieved.

279. The advantages of barge freight transport against road transport include:

- Significant reduction of road congestion, where HGVs in built up areas or busy road sections / junctions are a major issue

- Lower risk of road accidents / fatalities, particularly where the general public are concerned
- Lower noise on highways
- Reduced highway wear and tear from HGVs, meaning lower long-term highway maintenance costs
- Lower fuel consumption meaning reduction of the carbon footprint
- Lower exhaust emissions, meaning less air pollution in the district
- Each single barge can carry the equivalent of many lorry loads

280. The CBOA note that Thomson River Transport has submitted full details for Risk Assessment and Methos Statement / Working Procedures which fully cover the operation as planned. From the freight transport viewpoint, the CBOA see every reason why the operation should be granted the necessary permission.

281. **The Inland Waterways Association** no comments have been received.

282. **The Canal and River Trust** have no comments to make but state that the applicant should contact them to discuss the matter further if any changes result to the existing freight by water arrangements as a result of the proposal.

283. **South Worcestershire Land Drainage Partnership** comment that they are only in a position to comment on matters that may affect existing ordinary watercourses on or adjacent to the site of which there seem to be two that cross the site area. Statutory consultation is required with the LLFA regarding the Drainage Strategy proposals submitted by the application.

284. South Worcestershire Land Drainage Partnership note that the applicant has submitted a satisfactory Flood Risk Assessment.

285. They state that any proposals to alter existing, or construct new, culverts or carry out works in or on an ordinary watercourse would need Land Drainage Consent under Section 23 of the Land Drainage Act 1991 from South Worcestershire Land Drainage Partnership.

286. **The Lead Local Flood Authority (LLFA)** have no objections to the proposal, stating they were previously consulted on this site under a previous application (MPA Ref: 15/000013/CM). The Flood Risk Assessment submitted has then been updated as part of the current proposal. The new allowances for climate change appear to have been considered. In view of this, the LLFA have no issues or concerns with this application.

287. **Severn Trent Water Limited** have no objections and do not recommend any drainage related conditions, as the proposal would have minimal impact on the public sewerage system.

288. **Hereford & Worcester Fire and Rescue Service** have no objections or comments to make at this time.

289. **West Mercia Police** comment that they would in many respects support this application however, as unmanaged quarries often attract unwanted and

inappropriate behaviour, they urge the applicant to consider an effective management and maintenance strategy to ensure safety and security of the site.

290. **Western Power Distribution** comment that their apparatus (a 66kV overhead power line) passes through the site. The applicant must comply with the requirements of the Health and Safety Executive's (HSE) 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.

291. **CLH-Pipeline Systems** no comments have been received.

292. **Exolum Pipeline System Ltd** have no objections to the proposal, as the application site is not within the vicinity of their apparatus.

293. **Cadent Gas** have no objections to the proposal, identifying that their assets (a gas mains pipeline) is located to the south of the proposal, on the western bank of the River Severn within the B4211, and refer the applicant to the guidance document 'Specification for Safe Working in the Vicinity of Cadent Assets'.

294. **The Health and Safety Executive (HSE)** comment that the proposed development site does not currently lie within the consultation distance of a major hazard site or major accident hazard pipeline; therefore, at present HSE does not need to be consulted on any developments on this site.

## **Other Representations**

295. The application has been advertised on site, in the press, by neighbour notification, and via social media. To date, 21 letters of representation have been received, some of which are from the same respondents and include representations from British Rowing, British Canoeing, Upton Rowing Club, Worcester Rowing Club, The King's School Worcester, S C Entertainments, and former County Councillor P Middlebrough, 17 of which are letters of support, and 4 of which are objections. These letters of representation were made available to Members of the Planning and Regulatory Committee upon request. Their main comments are summarised below.

296. In addition to the above letters of representation, 2 letters from the respective landowners have been received confirming their intentions to actively seek to promote the use of the lake created as part of this application, as a rowing and water sports facility (should planning permission be granted).

## **Support**

### Location and extent of mineral working

- The proposed extension to the existing quarry is a logical further development for extraction of mineral resources.
- It is a relatively small extension to the already consented mineral working.

#### Need for minerals

- Though the land area and anticipated yield of mineral is smaller when compared to the existing mineral working, it would contribute significantly to strong local demand and the need for sand and gravel. When sand and gravel minerals are in such short supply, this is a national asset that should not be abandoned.

#### Environmental impact

- The activity and working of the existing quarry site have a low visual, noise, and dust impact being largely unnoticed by people living close by. The application site's mineral reserves would be worked out and exhausted in a very short period of time, maybe a couple of years or less.
- Transporting the raw material off site by river barge contributes to the proposal's environmental credentials.
- Winning the minerals without transporting through lanes and villages is a real plus that is not available to many other mineral workings. This logistical and environmental bonus should be taken advantage of and weigh heavily in favour of this proposal.
- When compared to its historic agricultural use, the proposed restoration plan provides for extensive and considerable ecology and environmental gain.
- The restoration plan cleverly blends the issues of ecology, environment, and recreational after-use, where all can thrive for mutual benefit.

#### Rowing and other water sports

- Worcestershire has a very strong tradition of rowing, but this part of the country is very poorly served in terms of multi-lane lakes for training and racing. The nearest multi-lane lakes are at Nottingham and Dorney Lakes, both at least a two-hour drive from Worcester. Access to a multi-lane rowing lake would open up water sports to a wider section of the population, offering a 'safe' training environment for novices, children and provide the opportunity to expand access for adults and children with a range of disabilities.
- A managed lake would provide an alternative to river training during floods (the winter of 2019-20 saw almost no rowing on the Rivers Severn and Avon from October through to February).
- A lake could also provide a venue for multi-lane racing which would attract visitors and revenue to the county.
- The facility offers an unprecedented opportunity for a significant number of the local, regional and national community not only in rowing, but the scope for the wider sporting and recreational communities is enormous. The rowing facilities could be used extensively for the rowing programme of the King's School, Worcester but also consider it would be utilised by so many in the rowing community and offers an opportunity for many more to enter the



sport. Providing a venue for training on still-water for young students as well as a desperately needed competition venue for the West Midlands is truly exciting. As one of the finest rowing nations in the World, it is such a shame there are so few rowing lakes in the country and indeed not in the West Midlands. The ability to host local, regional and national or even international events would be a terrific boost to the region and the local economy of Upton-upon-Severn.

- The proposed lake would provide training camps and coaching courses for town, school and university rowing clubs from the region and further afield, providing one of a very few accessible 1,000 metre multi-lane rowing lakes in England.
- Beyond the scope of rowing, other water sports would thrive in the area, as well as sports that could combine water and land-based activities, such as triathlons. The ability to offer triathlon in an environment of still-water swimming, with cycling and running away from public roads would be ideal for novices and younger people entering the sport, all of which would be significantly lower in risk and offer considerable spectator opportunities.
- It is a strategic objective of British Rowing to gain access for their clubs to multi-lane rowing lakes in England for training and competition purposes, in order to meet the specific needs of the development of their sport. More rowing lakes are required and would be fully utilised by rowing clubs if they are created, such is the national demand. 1,000 metre racing is particularly significant to Masters and Junior Rowing, and is the most common distance for side by side river competitions in England.
- The scope of use to provide access to sports such as Rowing, Canoe Sprint, Stand Up Paddle Boarding, Bell Boating and expand these sports into the community and schools is huge.
- This lake would serve the rowing clubs in the West Midlands including the areas along the M5, M4, M42 and M6 Motorway corridors where many clubs are located. In addition to the Midlands rowing clubs, those situated in the South-West and in Wales would also make considerable use of this lake and they expect it to be well utilised as soon as it is available. The lake would provide all year-round rowing when the Rivers Severn, Wye, Avon and Upper Thames are inaccessible to rowing clubs if they are in flood or drought. This is becoming more and more frequent in recent years. The lake would be well managed, as Upton Rowing Club has members who are involved in the management of local, regional, and national levels of rowing.
- Upton Rowing Club is in the final stages of its tenure on its existing site, and they are working with the club to explore the possibility of relocating it, in proximity of the lake, subject to the necessary permissions, which would provide lake and distance rowing for the club and assist with the ongoing costs of maintaining the lake. The club plans to involve other low intensity water sports, which would provide wider participation opportunities for the community as well as helping to meet the ongoing running costs.
- British Rowing are broadly in agreement with the Sport England comments, but with regard to public access following the construction of the lake, they are informed that CEMEX do not own the land as appeared to be the initial understanding of Sport England. Whilst the applicant may be able to contribute to the additional infrastructure in order to assist in fulfilling the

stated purpose of the after-use, they would have no ability to make provisions for additional public access. Therefore, the public access once the lake has been finished would be allied to the activities that are provided, so it is unfair to make this request to the applicant in this case.

- Support the creation of a rowing lake, which would be used by Worcester Rowing Club, not just only in times of flooding but throughout the whole year in training for larger competitions, and potentially training camps. They have over 10 squads at Worcester, and over 300 members who would all benefit.
- Upton Rowing Club comment that they have a standing rule that when the river is approximately 2 metres higher than the summer level, they stop rowing. However, to over top the flood defences around the floodplain where the lake would be located, the river needs to rise to approximately 5 metres above summer level, which can happen on rare occasions. Above this level the lake would be flooded, and all activities would have to stop. Upton Rowing Club have analysed flow data for the Severn at Upton-upon-Severn over the last 10 years and conclude that they have lost approximately 492 days rowing which would not have been lost if the lake was available for use.
- Potential creation of a water sports facility is an opportunity not to be missed. Has the possibility of being a transformational even for Upton-upon-Severn and the locality. With vision and promotion, it would attract sporting enthusiasts and tourists from across the country and beyond. It would be a unique water sports facility with river and lake side by side.
- The potential after-use would give a unique opportunity for water-based sporting activities. For those that use the facilities it has the potential to contribute to the health and wellbeing of the nation.
- Members of local canoe clubs in Worcester city, Fladbury and Hereford are all keen to use the facility should it be created.
- Such facilities would be unique in the West Midlands and one of only four in England – the others being at Eton, Nottingham and Peterborough.
- This lake would be one of only two 1,000 metre rowing lakes in England, the other being a significant distance away, in the east of the country at Peterborough.
- Upton Rowing Club are continuing to build dialogues with other water sports both locally and with their National Governing Bodies. A recent example of this is being contacted by the National Junior Coach for British Canoeing, who was very keen to talk to those involved about gaining access to the lake once it is up and running. They consider that this demonstrates the potential to build a successful regional water sports facility here at Upton-upon-Severn with good communications to the West Midlands and the other surrounding regions.

#### Festivals

- Notwithstanding some temporary inconvenience, the future of the festivals is assured. Landowners, promoters and the quarry operators are all committed to working together to minimise any disruption.

#### Education

- The educational opportunities offered by such a project would also be significant. The ability to offer studies in aquatic and terrestrial ecology and other biological fields to students of the county would be of immeasurable value. The development of new ecosystems and succession of species in the early years is just one of the many areas for projects. A generation of young people could witness such a new ecosystem develop and contribute to the management and care of the environment, assuming a small sense of ownership in their community.

## **Objection**

### Ecology

- To destroy an ancient meadow is sacrilege.
- To destroy living, many years old oak trees, which house bat roosts is beyond comprehension.
- Consider it would be easier to despoil this green space, in a later planning application, with car parks and buildings if the lake is already in situ. In view of this, they object to the shape of the proposed lake. They consider that a lake in the shape of a letter 'U' would be environmentally better, especially if the public were excluded from the area within the 'U' shape. This would allow birds to have an undisturbed feeding and nesting area and would still allow the public to walk in other areas.

### Festivals

- Considers that the application would stop the world-famous Upton Blues Festival and the less famous but still popular Sunshine Festival going ahead if Fish Meadow could not be used for camping. This would probably result in the closure of all of the businesses in Upton-upon-Severn as they consider that no lake would bring in as many customers.
- Comments that their company operates two annual music festivals at the site that is subject to this planning application. Mello Festival takes place during the late May bank holiday weekend and Sunshine Festival takes place over the August bank holiday weekend. Whilst they do not object to the scheme in principle, they are extremely concerned about the disruption that it would cause to these two festivals.
- They comment that there would be approximately 6,000 people on site during these festivals and their safety must be a priority. They state they were previously reassured by the applicant that there would be no disruption to the festivals, but they have not received any further communications following the submission of this application.
- They request that a condition is imposed requiring the applicant to structure the work schedule in a way that would minimise disruption over the two festival weekends.
- As part of the festival infrastructure, they have installed electric cables and water pipes under the ground in the areas to be extracted, therefore, they request a condition is imposed requiring the applicant to replace the cables and pipes, if they are removed as part of the works. In addition, they request reassurance that the cables and pipes would be available for use over the

two festival weekends, or acceptable alternative arrangements put in place, with the cost being covered by the applicant.

Need for lake

- To eventually facilitate a lake when there is already a river a few metres away is ludicrous.

Other matters

- All in the name of financial greed and definitely not progress is shameful, however, if it prevents Fish Meadow being abused by music festivals then there is a silver lining.

## **The Head of Planning and Transport Planning's Comments**

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

### **Alternatives**

298. Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 outlines the information for inclusion within ESs. Paragraph 2 states *“a description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects”*.

299. The PPG states that *“the 2017 Regulations do not require an applicant to consider alternatives. However, where alternatives have been considered, Paragraph 2 of Schedule 4 requires the applicant to include in their ES a description of the reasonable alternatives studied...and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects”* (Paragraph Reference ID: 4-041-20170728).

300. The applicant's approach to the assessment of alternatives, as set out in the ES, has considered a number of alternative restoration schemes. The applicant states that these were all rejected on the basis that they did not allow the creation of a final landform within which a FISA guidance compliant rowing course could be formed. This is because either the body of water would be too shallow or insufficiently wide.

301. In terms of likely significant environmental impact all the options considered by the applicant were assessed as having very similar impact footprints to that ultimately proposed. This was because the disturbance footprint for all the options considered, including that proposed, were also very similar.

302. The principle of the location of the proposal is considered in detail in the 'Location of the development' section of this report, which demonstrates the proposal is in accordance with the strategic locational policies of the adopted Worcestershire Minerals Local Plan.

303. The need for the development is discussed above in the 'Worcestershire's landbank of sand and gravel reserves' section of this report, which demonstrates that the landbank is below the minimum of 7 years for sand and gravel, which demonstrates that there is a shortfall in supply. Furthermore, specific sites and preferred areas are due to be allocated in an emerging Worcestershire Mineral Site Allocations DPD. It is noted that the site was submitted in response to calls for sites and is under consideration, but that the emerging Worcestershire Mineral Site Allocations DPD is at an early stage and preferred options for site allocations have not yet been consulted on.

304. In view of the above, the Head of Planning and Transport Planning considers that the applicant's approach to the consideration of alternatives is acceptable in this instance.

#### **Worcestershire's landbank of sand and gravel reserves**

305. 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"*. Paragraph 211 of the NPPF states *"when determining planning applications, great weight should be given to the benefits of mineral extraction, including the economy"*.

306. Paragraph 213 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.

307. The LAA (published February 2022) covers the period up to 31 December 2020 and, in accordance with the NPPF (paragraph 213), calculates annual provision requirements on a rolling average of 10 years' sale data in Worcestershire and other relevant local information.

308. The starting point for setting a production guideline for sand and gravel in the LAA is to estimate demand on the basis of a rolling average of 10 years sales data (the 10-year average) before considering other relevant local information. The 10-year sales average is designed to provide a representative baseline indication of demand by averaging out economic peaks and troughs. The COVID-19 pandemic resulted in enforced shutdown of large sections of the UK economy. Sales of sand and gravel from Worcestershire in 2020 were approximately 0.377 million tonnes, considerably lower than approximately 0.596 million tonnes sold in the previous year (2019) which was unaffected by the

COVID-19 pandemic. The LAA, therefore, considered it would not be appropriate to rely on 2020 sales figures in the baseline 10-year sales average due to the impact on sales figures being beyond that which can be considered a “usual” fluctuation in market demand.

309. The 10-year average of sales of sand and gravel from 2010 to 2019 including combined data with Herefordshire Council for 2012 and 2013 is 0.569 million tonnes. The LAA states that indicators of increasing demand suggest that the production guideline for primary sand and gravel should vary from the 10-year average and, therefore, it proposes to deviate from the 10-year sales average by plus 50%.

310. The annual production guideline for sand gravel identified by the LAA is therefore 0.853 million tonnes. Based on this production guideline and the stock of permitted reserves of approximately 2.504 million tonnes of sand and gravel, Worcestershire had a landbank of approximately 2.94 years on 31 December 2020. This is below the 7-year landbank required by national policy and indicates that there is currently a shortfall of permitted reserves in the county.

311. Since 31 December 2020, the MPA granted planning permission on 25 March 2021 (MPA Ref: 18/000036/CM, Minute No. 1069 refers) for a proposed sand quarry, infilling void using inert materials only with restoration to agricultural use together with new access, landscaping and associated works on land adjacent to former Chadwich Lane Quarry, Chadwich Lane, Bromsgrove, Worcestershire. Based on the proposed extraction of approximately 1.35 million tonnes per year, this has increased the landbank by approximately 1.58 years.

312. Assuming production guideline for sand and gravel set out in the LAA (0.853 million tonnes) continued in 2021, then the landbank of permitted reserves on 31 December 2021 would be approximately 3.001 million tonnes of sand and gravel, equating to about 3.52 years. Consequently, on 31 December 2021 Worcestershire did not have sufficient reserves of sand and gravel available with planning permissions to meet its annual production guidelines based on sales and other relevant local information, in accordance with national planning policy and guidance.

313. Since 31 December 2021, the MPA granted planning permission on 8 July 2022 (MPA Ref: 21/000029/CM, Minute No. 1102 refers) for the 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 at (Western portion of the former) Sandy Lane Quarry, Wildmoor. This has increased the landbank by approximately 0.29 years.

314. Assuming production guideline for sand and gravel set out in the LAA (0.853 million tonnes) continued in 2022, then the landbank of permitted reserves on 30 September 2022 would be approximately 2.606 million tonnes of sand and gravel, equating to about 3.06 years. Consequently, at the time of the determination of this application, Worcestershire has a land bank of sand and gravel reserves below the minimum 7-years required by national policy and indicates that there is currently a substantial shortfall of permitted reserves in the county.

315. Should this planning application be granted permission, it would increase the landbank by approximately 0.56 years, equating to a landbank of approximately 3.62 years in total, which is still substantially below the minimum landbank for at least 7 years for sand and gravel.

316. It is 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 1.44 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 1.69 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, it would increase the landbank by approximately 1.17 years.
- Former Motocross site, Wilden Lane, Wilden, Stourport-on-Severn – Proposed extraction of approximately 250,000 tonnes of sand (MPA Ref: 21/000036/CM). Should this planning application be granted, it would increase the landbank by approximately 0.29 years.
- Ripple East, Bow Lane, Ripple – Proposed extraction of approximately 475,000 tonnes of sand and gravel with restoration to agriculture and nature conservation, including ponds, wetlands, hedgerows and lowland mixed deciduous woodland and meadows (MPA Ref: 22/000015/CM). Should this planning application be granted permission, it would increase the landbank by approximately 0.56 years.

317. It is noted that Policy MLP 14: ‘Scale of Sand and Gravel Provision’ of the adopted 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”*.

318. The Government's 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”*.

319. Paragraph 2.24 of the adopted Worcestershire Minerals Local Plan states that *“as aggregates are bulky, costly to transport and generally fairly low value, they are typically only transported about 30 miles from their source. However,*

*where a particular resource serves a distinct market, or where suitable resources are not available more locally, materials may travel further to meet demand”.*

320. It is considered that the proposal would contribute to providing a geographical spread of mineral reserves and provide an additional mineral site, contributing to a steady and adequate supply of mineral and adding to resilience to the mineral supply in Worcestershire, which is currently provided by a limited number of active sites (Wildmoor Quarry and Chadwich Lane Quarry, north Bromsgrove; Clifton Quarry, south of Worcester; and the existing Ryall North Quarry, north of Upton-upon-Severn) and a permitted site (Sandy Lane Quarry, north of Bromsgrove).

321. 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.

### **Location of the development**

322. Paragraph 209 of the NPPF states that *“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”.*

323. The Government’s PPG further states that *“planning for the supply of minerals has a number of special characteristics that are not present in other development: minerals can only be worked (i.e., extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited...”* (Paragraph Reference ID: 27-001-20140306).

324. Comments have been received from consultees including Ripple Parish Council and Malvern Hills District Council that the development should be considered against the County of Hereford and Worcester Minerals Local Plan, however, members are advised that this Local Plan has been superseded by the adopted Worcestershire Minerals Local Plan and now does not form part of the Development Plan.

325. Policy MLP 1: ‘Spatial Strategy’ of the Worcestershire Minerals Local sets out a spatial strategy for the location of minerals extraction, seeking to direct such development within the Strategic Corridors stating that *“for most types of mineral, the majority of development over the life of the plan will be located in the Avon and Carrant Brook, Lower Severn, North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors: i. Development for sand and gravel...will be supported within the strategic corridors and will not normally be supported elsewhere in the county...”.*

326. The reasoned justification to Policy MLP 1 states that *“to serve market demand for mineral resources in and around Worcestershire, and to support the local and wider economy five strategic corridors are identified [within the Worcestershire Minerals Local Plan]...The identification of the strategic corridors has been informed by the distribution of the mineral resources which are found in Worcestershire... The distribution of sand and gravel...resources has been instrumental in defining the strategic corridors. The strategic corridors are the areas in the county where these are the greatest concentrations of sand and*



*gravel, silica sand, and brick clay resources which are not affected by significant viability, environmental and amenity constraints”.*

327. The reasoned justification goes on to state that *“the strategic corridors are well located to serve planned housing and infrastructure developments and are connected to the strategic transport network...Concentrating mineral development in the strategic corridors will enable a co-ordinated approach to the working and restoration of mineral sites, giving greater opportunities to deliver integrated social, economic and environmental gains than if sites are considered in isolation. The character and distinctiveness of each of the strategic corridors sets a framework for the cost-effective delivery of multifunctional green infrastructure priorities”.*

328. The proposed development would be located within the ‘Lower Severn Strategic Corridor’ as shown and defined on the Minerals Local Plan Policies Map, in accordance with Policy MLP 1 of the adopted Worcestershire Minerals Local Plan.

329. The Government’s PPG states that *“mineral planning authorities should plan for the steady and adequate supply of minerals in one or more of the following ways (in order of priority):*

- 1) Designating Specific Sites – where viable resources are known to exist, landowners are supportive of minerals development and the proposal is likely to be acceptable in planning terms. Such sites may also include essential operations associated with mineral extraction;*
- 2) Designating Preferred Areas, which are areas of known resources where planning permission might reasonably be anticipated. Such areas may also include essential operations associated with mineral extraction; and/or*
- 3) Designating Areas of Search – areas where knowledge of mineral resources may be less certain but within which planning permission may be granted, particularly if there is a potential shortfall in supply” (Paragraph Reference ID: 27-008-20140306).*

330. The emerging Worcestershire Minerals Site Allocations DPD is being produced to support the adopted Worcestershire Minerals Local Plan, which will allocate “specific sites” and “preferred areas” for mineral extraction. The site, which is the subject of this report, has been promoted through the Local Plan process. A range of technical evidence is being gathered to inform a “Preferred Options” draft of the Worcestershire Minerals Site Allocations 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 of the Worcestershire Minerals Site Allocations DPD is scheduled to take place in Quarter 2 - Quarter 3 of 2023.

331. The adopted Worcestershire Minerals Local Plan designates ‘areas of search’. Policy MLP 3: ‘Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors’ of the of the Worcestershire Minerals Local states that: *“areas of search are allocated within the Avon and*

*Carrant Brook, Lower Severn, North East Worcestershire, North West Worcestershire and Salwarpe Tributaries Strategic Corridors, as shown [within the Worcestershire Minerals Local Plan]...a) planning permission will be granted for new mineral developments and extensions to extant sites within allocated areas of search where there is a shortfall in supply as demonstrated by part c)".*

332. Part c) of the policy states: *"a shortfall in supply for a broad mineral type will be considered to exist where: i) there is a shortfall in extant sites and allocated specific sites and / or preferred areas to meet the scale of provision required over the life of the plan..."*.

333. The reasoned justification to Policy MLP 3 states that *"areas of search have been allocated to provide a positive framework to ensure that a sufficient supply of minerals can be delivered over the life of the plan, to facilitate the minerals industry to find and put forward sites, and (combined with the strategic corridor priorities in policies MLP 8 to MLP 12 to provide as much certainty as possible to communities over where and how mineral development might take place if there is a shortfall in supply of a particular mineral"*.

334. The proposed development is located within an "area of search" as shown and defined on the Minerals Local Plan Policies Map. The Head of Planning and Transport Planning considers that there is currently a shortfall in extant sites, allocated specific sites and preferred areas to meet the scale of provision required over the life of the adopted Worcestershire Minerals Local Plan, given that the emerging Worcestershire Minerals Site Allocations DPD which will allocate "specific sites" and "preferred areas", is at an early stage of preparation and has not, therefore, been subject to consultation, tested at examination or adopted by the County Council. Furthermore, as outlined in the 'Worcestershire's landbank of sand and gravel reserves', the current landbank is considerably below the minimum 7 years for sand and gravel.

335. In view of the above, the Head of Planning and Transport Planning considered that the location of the proposed development accords with the strategic locational policies of adopted Worcestershire Minerals Local Plan, in accordance with Policies MLP 1 and MLP 3 of the adopted Worcestershire Minerals Local Plan.

336. Consideration of the proposal against Policy MLP 9: 'Lower Severn Strategic Corridor' of the adopted Worcestershire Minerals Local Plan, is set out in the 'Restoration and aftercare of the site' section of this report. This policy sets the priorities for the delivery of multifunctional green infrastructure in the Lower Severn Strategic Corridor.

#### **Best and Most Versatile (BMV) agricultural land**

337. Paragraph 174 of the NPPF states that *"planning policies and decision should contribute to and enhance the natural and local environment by a) protecting and enhancing...soils (in a manner commensurate within their statutory status or identified quality in the development plan);...b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and*

woodland". Footnote 58 of the NPPF states that "where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality".

338. Policy MLP 34: 'Soils' of the adopted Worcestershire Minerals Local Plan states that "planning permission will be granted where it is demonstrated that the proposed mineral development will conserve soil resources and their quality. A level of technical assessment appropriate to the proposed development and its potential impacts on soil resources will be required to demonstrate that, throughout its lifetime, the proposed development will: a) retain all soils within the site; and b) make appropriate provision for: i. soil stripping; ii. Soil handling; iii) soil storage; and iv. Re-use of soils".

339. Policy MLP 35: 'Best and Most Versatile Agricultural Land' of the adopted Worcestershire Minerals Local Plan states that "planning permission will be granted where it is demonstrated that the proposed mineral development will safeguard the long-term potential of best and most versatile agricultural land. A level of technical assessment appropriate to the proposed development and its potential impacts on best and most versatile agricultural land will be required to demonstrate that, throughout its lifetime, the proposed development will:

- a) prioritise the development of poorer-quality land in preference to higher-quality land, avoiding significant development of best and most versatile agricultural land unless it is demonstrated to be necessary;
- b) safeguard the long-term potential of best and most versatile agricultural land by enabling the land to retain its longer-term capability for agricultural use where practicable, though the proposed after-use need not always be for agriculture; and
- c) optimise the restoration of agricultural land quality and integration of green infrastructure components, where the proposed after-use includes agriculture".

340. The NPPF defines BMV agricultural land as Grades 1, 2 and 3a of the ALC. An ALC and Soil Resource Report was submitted as part of the ES. This identifies that the majority of the application site is Grade 3a agricultural land, with the north-east corner of the site constituting Grade 2 agricultural land, and a swath of Grade 3b agricultural land in the centre and north-west corner of the site.

341. The applicant has set out that approximately 11.4 hectares of agricultural land would be disturbed as a result of the proposed development, of which approximately 8.3 hectares would be BMV agricultural land, i.e., Grades 2 and approximately 3a and 3.1 hectares are Grade 3b. The proposed lake would result in approximately 7.6 hectares being restored to water and, therefore, there would be approximately 3.8 hectares of land available for restoration to agriculture. The applicant has referred to the submitted soil handling methodology which concludes that the restored agricultural land would be restored to Grade 3a BMV quality. On the basis that the proposal would restore approximately 3.8 hectares of land to BMV agricultural land, this means that

there would be a permanent loss of approximately 4.5 hectares (approximately 54%) of available BMV agricultural land due to the proposed restoration which includes the creation of a lake.

342. The applicant states that the amount of agricultural restoration included in the proposed restoration scheme has been maximised when accounting for the primary purpose of the scheme which is to create a landform capable of being a water sports facility that reflects FISA guidance on the construction of competitive rowing courses. Therefore, restoration of BMV agricultural land would not be possible for all of the disturbed land.

343. The landowner has confirmed that the proposed development, although it would result in a reduction in the amount of land available to farm, would not have a significant effect on his wider agricultural business. In view of this, the applicant states that the loss of approximately 4.5 hectares of BMV agricultural land, when viewed in the context of the occurrence of BMV agricultural land in the county, and the lack of impact to the agricultural business that it supports, is not considered significant.

344. The applicant has submitted further information that sets out that how soils would be handled including referencing that these would be handled as set out in the updated The Institute of Quarrying publication Good Practice Guide for Handling Soils in Minerals Workings' (July 2021) which succeeds Defra's 'Good Practice Guide for Handling Soils' (April 2000). They have also set out that any movements across the soil would be kept to a minimum. The applicant recognises that typically soil handling should not normally take place between the months of October and March when it is expected that evaporation rates and temperature rates are low. This ensures that soils would only be handled when in a dry and friable condition. However, due to variable climate factors the strict criteria for determining dry and friable shall be based on a field assessment of soil wetness in relation to its lower plastic limit. Therefore, they would assess different types of soil using the 'worm test' (if a thread of less than 3mm diameter of soil can be formed, the soil is wetter than the lower plastic limit and soil moving should not take place), to ensure that soil moving only takes place when the soils have dried out. For areas of the site proposed to be restored to agriculture, a target soil profile of 1.2 metres is proposed (approximately 0.9 metres of subsoil and approximately 0.3 metres of topsoil).

345. Natural England have been consulted in respect of soils and BMV agricultural land have raised no objections on agricultural land / soil handling grounds. They have reviewed the submitted 'Soil Depth and Handling Methodology Note in Response to Natural England – Ryall North' document and can confirm that the further information provided has satisfactorily addressed their previous concerns regarding soils, land quality and reclamation. Natural England is satisfied that the soils and ALC information constitutes a satisfactory record of the pre-quarrying physical characteristics of the land within the application site boundary.

346. The Head of Planning and Transport Planning considers that, subject to the imposition of appropriate conditions relating to the management of the soil resource including the development being carried out in accordance with the

submitted soil handling methodology, refusal on grounds related to the loss of BMV agricultural land could not be justified.

**Traffic, highway safety and public rights of way**

347. 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*”.

348. Policy MLP 39: ‘Transport’ of the adopted Worcestershire Minerals Local Plan states that “*planning permission will be granted for mineral development that uses the most sustainable transport options and which will not have an unacceptable adverse effect on transport safety or congestion. A level of technical assessment appropriate to the proposed development and its potential impacts on the local and strategic transport network will be required to demonstrate that, throughout its lifetime, and taking into account the cumulative effects of multiple impacts from the site and/or a number of sites in the locality, the proposed development will:*

- a) *prioritise the use of alternatives to road transport for the movement of minerals and materials (including water, rail, conveyors and pipelines). Road transport of minerals and materials will only be acceptable where it is demonstrated that alternative modes are not practicable or are not environmentally preferable;*
- b) *provide safe access for employees and visitors which, where appropriate, optimises the use of public transport, walking and cycling;*
- c) *connect to the strategic transport network without having an unacceptable adverse effect on safety or congestion of the local or strategic transport network;*
- d) *not have an unacceptable adverse effect on the environment or amenity along transport routes; and*
- e) *where new or modified routes are required, optimise opportunities to create and integrate green infrastructure”.*

349. Policy SWDP 4: ‘Moving Around South Worcestershire’ of the adopted South Worcestershire Development Plan sets out, amongst other aspects, that proposals must demonstrate that they address road safety.

350. The ES includes a chapter on the traffic and transportation impacts and effects associated with the proposed development.

351. Quarrying of the site would be undertaken in a series of ‘campaigns’, whereby mineral extraction is undertaken for periods of up to 7 weeks at a time, with no more than 4 campaigns undertaken per year. HGV movements to and from the application site would occur 8 times per year (at the beginning and end of each of the 4 campaigns per year). Each campaign would commence with the mobile plant required being brought to the site by up to 4 low loaders via Ryall

Court Lane. Once the low loaders are unloaded, they would leave the site and would not return until the end of the campaign to remove the mobile plant. Based on the worst-case scenario whereby all 6 employees travel independently in a private vehicle, a further 12 movements would be anticipated on the network, with 6 arrivals in the morning and 6 departures in the evening. In addition, a fuel delivery vehicle, either an HGV or tractor and bowser, would deliver fuel every 2 to 3 days. Occasional visitors would consist of operational managers, regulators, fitters, monitoring staff, etc. The applicant states that the vehicle movements described above reflects the 'status quo' of the current quarry operations, and no change to this practice is proposed.

352. Ryall Court Lane is a rural road with no pedestrian footpath and is only a public highway for about half of its length, turning into a private access track through Ryall's Court. Ryall Court Lane is fully surfaced to Ryall Court Farm, averaging 3.5 metres in width, with a series of informal passing points. The A4104 provides direct access to the A38, approximately 430 metres north-east of Ryall Court Lane. Both the A4104 and the A38 are identified on Worcestershire County Council's Advisory Lorry Route Map.

353. The applicant states that the system of notifying local residents of the vehicle movements along Ryall Court Lane would continue for the extended duration of the proposed quarry extension. This includes:

- Advising all residents of Ryall Court Lane and Court Lea of the dates and times that low loaders are to be using Ryall Court Lane to access the quarry in advance of it actually being used
- Using an escort vehicle in front of the low loader convey to ensure the lane is not being used by pedestrians or other motorists
- Providing the escort of lead low loader with two-way radios so the former can advise the latter of any issues on the route, and if necessary, delay the convoy until a user of the lane has reached a safe place
- As part of their site induction advising all escort and low loader drivers of the issues in using Ryall Court Lane and of the measures outlined above

354. The applicant states that as per their current practice, no aggregate would be sold directly from the site, all aggregate would be removed from site by barge to Ryall House Farm Quarry processing plant site.

355. A review of Crashmap shows that no accidents have occurred within the vicinity of the site access since the original planning permission (under MPA Ref: 15/000013/CM) was granted.

356. The County Highways Officer has been consulted and has raises no objections to the proposal, subject to the imposition of an appropriate condition requiring a CEMP for highways. The County Highways Officer states that the

applicant would seek to continue the current proposals, which are not seen to exacerbate traffic movements at the quarry, along Ryall Court Lane or at the site access junction. The County Highways Officer has undertaken a robust assessment of the planning application and consultation responses from third parties and considers that there would not be a severe impact and, therefore, there are no justifiable grounds on which an objection could be maintained.

357. Ripple Parish Council have commented that Ryall Court Lane is a narrow road providing access to a number of residents and, therefore, they request conditions are imposed to cover the following:

- The movement of heavy equipment into and out of the site is limited to no more than 4 campaigns per annum
- That heavy equipment is escorted along Ryall Court Lane
- That workforce light traffic is limited to approximately 12 movements per day (6 in each direction)
- That all Ryall Court Lane residents are given prior notice of the movement of Heavy Plant

358. Conditions are recommended requiring arrangements for notifying local residents of the low loader movements to and from the site along Ryall Court Lane; and restricting the use of Ryall Court for the transportation of plant and machinery to 09:00 to 15:30 hours Mondays to Fridays, inclusive, as per condition 32 of the extant planning permission MPA Ref: 15/000013/CM. The Head of Planning and Transport Planning considers that given the low number of vehicle movements along Ryall Court Lane, conditions restricting their number are not necessarily in this instance. In respect to limiting the number and duration of campaigns, the applicant states that the campaigns due to regular site flooding have previously been quite permanent between mid-April to mid-November, which is the proposed 28-week period, but in successive campaigns. This has been on going through the whole operation which started in earnest in 2016. In view of this, the Head of Planning and Transport considers that due to potential site flooding, and to provide the applicant with flexibility, it would not be necessary or reasonable to impose conditions restricting the number and duration of mineral extraction campaigns.

359. Ripple Parish Council have also stated that there is the potential for workforce traffic entering / leaving Ryall Court Lane via the A4104 to utilise the restricted access residential Ryall Road to reach the A38. Ryall Road is used as an unofficial cut through by drivers to avoid queuing at the A4104/A38 junction. The Parish Council request that a condition is imposed that all plant and daily works traffic must not use Ryall Road.

360. The Head of Planning and Transport Planning notes that there is an existing Traffic Regulation Order on Ryall Road that restricts its use to “access only”, therefore, it would be illegal for any traffic associated with the proposal to use Ryall Road as a cut through, and this would be enforceable by the police. It is also noted that planning permission was granted for proposed replacement of existing staggered junction with a 4-arm roundabout at A38 / A4104 Junction

(MPA Ref: 20/000032/REG3, Minute No. 1064 refers), which is considered would relieve some of the vehicular pressure on Ryall Road.

361. Malvern Hills District Council comment that a condition should be imposed restricting the sale of sand and gravel direct to the public from the site. A condition is recommended to this effect.

362. The Head of Planning and Transport Planning considers that the proposal would be a continuation of current operations in terms of impacts upon traffic and highway safety and would not exacerbate traffic movements to and from the quarry, along Ryall Court Lane or at the site access junction, subject to the imposition of appropriate conditions.

363. With regard to public rights of way, paragraph 100 of the NPPF states that *“planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails”*.

364. Policy MLP 30: ‘Access and Recreation’ of the adopted Worcestershire Minerals Local Plan seeks to optimise opportunities to enhance rights of way network and the provision of publicly accessible green space. It also seeks to ensure that proposals would not have an acceptable adverse effect on the integrity and quality of existing rights of way network or navigable waterways and retaining rights of way in situ unless it is demonstrated that it is not practicable.

365. ‘The Site’ section of this report describes the public rights of way within the site and its vicinity. Footpath RP-501 would be directly impacted by the proposal as it runs south to north through the application site and ends in a cul-de-sac as the remainder of Footpath RP-501 has been permanently extinguished as part of planning permission MPA Ref: 15/000013/CM to facilitate the development of the quarry. As part of planning permission MPA Ref: 15/000013/CM, a new continuous footpath (Footpaths RP-554, RP-555, EA-561 and RP-556) was to be created further to the east of the original alignment of Footpath RP-501 to cater for the new lake that would be created. As part of this application and the associated application pending consideration (MPA Ref: 20/000015/CM), the applicant is proposing to permanently extinguish the remainder of Footpath RP-501 and the yet to be established new continuous footpath. On completion of the restoration of the quarry site, the applicant is proposing a new continuous footpath, located to the east of both RP-501 and the new created footpaths. This new route would run south to north connecting Footpath RP-508 to Bridleway EA-54, and Footpaths EA-519 and RP-554.

366. The Ramblers Association have raised no objections to the proposal, in particular noting the impacts upon Footpath RP-501 have been addressed, and ultimately there would be enhancements for walkers.

367. The British Horse Society comment that they see this as an opportunity to include equestrians in the restoration plans in addition to the provision of a lake for water sports. This is particularly needed as there is a gap in the bridleway



network in this area. They understand the applicant is not prepared to include rider access in the restorations scheme, but the British Horse Society's comments remain unchanged. Notwithstanding the British Horse Society's comments, the Head of Planning and Transport Planning notes that there are a number of bridleways surrounding the application site, with Bridleways UU-508 (Severn Way), UU-512, EA-546, EA-547, RP-505 and RP-506 surrounding the perimeter of the application site and connect to other bridleways for onward journey. It is considered that the primary purpose of the proposed new footpath around the lake is required in compensation for the loss of the existing footpath. It is considered that a new bridleway following this alignment would add very little to bridleway network, given that Bridleways UU-512, EA-546, EA-547, RP-505 and RP-506 run parallel to it. It is also noted that the County Footpath Officer raised no objections to the proposal.

368. The County Footpath Officer states that the proposals would require legal amendments to the public rights of way in the area, therefore, an application should be made to the County Council's Public Rights of Way team as soon as possible following any grant of planning permission.

369. Sport England have made various comments including exploring with any owners whether public access to walk and cycle around the lake could be provided. They have also commented that whilst the proposed routes of the diverted public rights of way are noted, it is considered that more direct pedestrian / cycle connection between the southern part of the lake and the village or Severn Way should be provided where possible. This would then encourage more people to access the lake. Sport England are also unclear if the access track is intended to be used for emergency vehicles, maintenance etc. Ripple Parish Council also make a similar request for the tracks / pathways around to proposed lake to be designated as formal public rights of way.

370. The applicant has confirmed that with regard to the proposed track around the lake, it is not proposed to designate this as a public right of way. Accordingly, they do not propose to provide access to walkers or cyclists as they consider such access to be incompatible with the nature conservation and rowing objectives of the scheme. The applicant has stated that they have made provision in the proposals for other footpaths to be added or diverted in the vicinity of the site.

371. The Head of Planning and Transport Planning notes that the purpose of the restoration scheme is to create a nature conservation area on the western bank of the proposed lake (reedbed) and thus providing an access track that is publicly accessible in this location would likely cause a high level of disturbance to wildlife, which would contradict the aims of the restoration scheme.

372. In light of the above matters and the advice of consultees including County Highways Officer, the County Footpath Officer and the Ramblers Association, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon traffic, highways safety or public rights of way subject to the imposition of appropriate conditions including those relating to a CEMP for highways, vehicular access only to be gained via Ryall Court Lane, restricting the hours that Ryall Court Lane can be used for the transportation of

planting and machinery, arrangements for the advanced notification of local residents about the transporting plant and machinery along Ryal Court Lane, all sand and gravel to be transported by barge only, and that there would be no sales of material from the site. The Head of Planning and Transport Planning considers that the proposed development accords with Policies MLP 30 and MLP 39 of the adopted Worcestershire Minerals Local Plan, and Policy SWDP 4 of the adopted South Worcestershire Development Plan.

### **Landscape character and visual impacts**

373. Policy MLP 33: 'Landscape' of the adopted Worcestershire Minerals Local Plan seeks to conserve and enhance the character and distinctiveness of the landscape.

374. Policy SWDP 21: 'Design' of the adopted South Worcestershire Development Plan sets out, amongst other elements, that *"development proposals must complement the character of the area"*. Policy SWDP 23: 'The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)' of the adopted South Worcestershire Development Plan sets out, that *"development that would have a detrimental impact on the natural beauty of an AONB...will not be permitted"*. Policy SWDP 25: 'Landscape Character' of the adopted South Worcestershire Development Plan makes it clear that development proposals and their associated landscape schemes, amongst other aspects, should be appropriate to, and integrate with, the character of the landscape setting.

375. The applicant submitted a LVIA, which informed the 'Landscape & Visual' chapter in the ES. The LVIA considers the impacts upon landscape character and visual effects. The LVIA notes that the haul routes, wharf area, soil storage areas, plant and equipment and other elements are existing landscape components forming part of the permitted mineral operations (under MPA Ref: 15/000013/CM) and that other than an extension of time, there would be no change to these permitted 'landscapes'. As set out in the LVIA there are various operations that would generate landscape and visual effects. This would include the loss of vegetation, stripping of soils from the extension area, excavation of mineral and restoration operations. There is also a proposed change to the final restoration scheme. The LVIA summarises these changes, which includes a proposed increase of open water (from approximately 15 hectares as part of the permitted scheme to approximately 20.3 hectares).

376. Within the study area, the LVIA identified a number of landscape receptors, these comprise the Malvern Hills AONB National Landscape; Croome Court and also The Park (Severn End). It also includes the historic receptors of Hanley Castle, and also the Moated site at Earl's Croome. The LVIA has also considered the different Landscape Character Types, and the smaller Landscape Description Units (LDUs).

377. As set out in the LVIA, *"the magnitude of landscape impacts depends upon the following factors;*

- *The scale or degree of change to the existing landscape resource;*

- *The nature of the change caused by the proposed development (for example, beneficial or adverse); and*
- *The timescale, or phasing, of the proposed development”.*

378. As summarised in the LVIA, a moderate level of landscape impact has been assessed for the application site. The impact on the immediately adjacent LDUs is assessed as minor or negligible as it would not affect their key characteristics in any way but could affect their perceived character to a limited extent.

379. *“One receptor, the historic park and garden at The Park is located on the opposite bank of the River Severn close to the location of the proposed wharf and surge pile area. As such the potential for indirect effects on the setting of the receptor was reviewed, but it was concluded that, due to its enclosed aspect and its limited views out to the river, principally to the north, the development would not have any significant effect on its landscape or setting”.*

380. The proposal would have a direct effect on the landscape through removal of a limited number of trees and hedgerows, which are a key characteristic of the landscape. A new character would be introduced to the area, through extracting sand and gravel and then restoring the land to a lake. However, this would not be inappropriate in light of the site’s location within the river flood plain, and in the context of the existing permitted lake restoration scheme associated with planning permission MPA Ref: 15/000013/CM.

381. Whilst there would be other impacts on the landscape including the wharf, haul route and surge pile, these would be temporary uses of the land and the impact on those areas is considered to be reversible.

382. The ES sets out that there would be a moderate landscape impact. During the operational phase of the development, there would be some effect on the landscape characteristics and landscape character but without exceeding the landscape capacity threshold. Key characteristics would be retained. A moderate impact is therefore not considered significant with regard to the development proposed.

383. The ES also states that an assessment of the visual change at various viewpoints has been undertaken. Visual effects caused by the proposed development are generally restricted to users of the viewpoints around the edges of the application site due to the screening nature of peripheral vegetation. The ES sets out that the viewpoints where effects are greatest are at two viewpoints (Viewpoint 5 – Severn Way, and Viewpoint 7 – Upton Bridge). With regard to Viewpoint 5, the viewpoint offers relatively open views across the floodplain, with some views of the extraction area, proposed wharf, surge piles and loading operations. The significance of the visual effect for this viewpoint is assessed as ‘Moderate’. Once the site is restored, it is considered that the visual effects would reduce to ‘Minor’, due to the angle of view and the merging of the restoration into the landscape.

384. With regard to Viewpoint 7, during the mineral extraction phase a 'Moderate' visual effect is anticipated, due to the relatively short timescales of this phase. However, the restoration phase is anticipated to result in a 'Major / Moderate' visual effect, which is significant. The significance of this view is related to the long-term change likely to occur due to the presence of the new lake in the view, as people would be looking down into the proposed lake from the elevated bridge level and would be more aware of the extent of the new waterbody that would be created. As set out in the ES, *"once the restoration is established and the lake flooded the nature of the effect becomes subjective and may be considered neutral or even positive in that views of waterbodies are often considered to enhance the landscape"*.

385. The retention and strengthening of existing hedgerows around the site and the establishment of selective new tree and hedgerow planting would have beneficial effects in terms of screening the application site and would improve the general visual amenity of the area. The proposed restoration to a lake with shallow slopes and areas of wetland and wet woodland would introduce an element of visual diversity to the area which would be of visual interest to the walkers on this length of the Severn Way as the definitive route of the path is screened from the river by the flood banks alongside the river.

386. Due to the elevated positions of some viewpoints, in particular Viewpoint 7, the ES states that would not be possible to devise traditional mitigating measures in terms of visual screening such as earth bunds or tree planting. This is because of the site's location in the floodplain giving any above ground screen bund the potential to increase flood risk, and in the latter case because any tree planting would be unlikely to grow sufficiently prior to the commencement of the development to be effective.

387. The County Landscape Officer has been consulted and has raised no objections to the proposal on landscape grounds, subject to the imposition of a condition requiring a 10-year aftercare period for all nature conservation areas (all areas excluding agricultural grassland). The County Landscape Officer concurs with the findings presented in the submitted LVIA which has captured the key issues concerning impacts to landscape and visual character and the wider setting of the site.

388. The County Landscape Officer states that the submitted landscape plan and statement set out how the southern extension would be dominated by a recreational lake. This, on the one hand, marks a major shift in land use and, therefore, a significant impact to the baseline landscape character. However, the measures described in the restoration statement set out a good compromise between the new function and delivery of landscape and ecological enhancements.

389. The County Landscape Officer notes the discrepancies across a number of documents, as set out by the County Ecologist, and the County Landscape Officer concurs with their recommendations to provide corrections.

390. Malvern Hills AONB Unit state that they do not wish to comment on the application.

391. In view of the above and based on the advice of the County Landscape 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, including the Malvern Hills AONB National Landscape, subject to the imposition of appropriate conditions, including requiring the site to be restored within a set timescale, being carried out in accordance with the soil handling methodology, details of boundary treatments, annual topographical surveys, restricting lighting, the development being carried out in accordance with the combined CEMP / LEMP with associated compliance monitoring, limiting the height of stockpiles, no processing or treatment of sand and gravel on site, updated restoration scheme, aftercare scheme, 10 year aftercare period for all nature conservation areas, and interpretation strategy for landscape. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policy MLP 33 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 23 and SWDP 25 of the adopted South Worcestershire Development Plan.

### **Historic environment**

392. With regard to heritage assets, as set out under 'The Site' section of this report, the historic park and garden at The Park is located on the opposite bank of the River Severn and lies approximately 900 metres, broadly to the north-west of the site.

393. The closest scheduled monuments include the 'Tower of Old Church of St Peter and St Paul 73 metres west of Bridge House' (which is also Grade II\* listed and referred to as 'Tower of former parish church'), and 'War Memorial in churchyard' which lie approximately 350 metres broadly to the south-west of the site. There is also the 'Boundary Cross at entrance to Quay Lane', which lies approximately 900 metres broadly north-west of the site; and the scheduled monument of 'Ringwork known as Hanley Castle 520 metres south of the Church of St. Mary', lies approximately 950 metres broadly to the west of the site.

394. The Upton-upon-Severn Conservation Area, which extends from the southern side of the River Severn to the northern side, lies approximately 130 metres broadly to the south of the site. Hanley Castle Conservation Area is located about 1 kilometre broadly to the north-west of the site.

395. There are in the region of 100 listed buildings in Upton-upon-Severn, which at the closest are located approximately 320 metres from the site. This includes 2-6 Church Street, and the Parish Church of Saint Peter and Saint Paul, which are both Grade II\* listed. The Grade II Listed Buildings of Holly Green Cottage and Tudor Cottage, Sunnybank Cottage and Holly Green FarmHouse, the nearest of which is located approximately 660 metres broadly east of the application site. Pool House, a Grade II listed property, lies approximately 250 metres broadly to the west of the site. The Cottage, Ballards Farm (Quay Lane Farmhouse) and Bonner's Cottage, which are all Grade II listed properties, lie approximately 530 metres to 580 metres broadly to the north-west of the site.

396. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty with regard 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”*. 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”*.

397. Policy MLP 32: ‘Historic Environment’ of the adopted Worcestershire Minerals Local Plan states that *“planning permission will be granted where it is demonstrated that the proposed mineral development will conserve and, where possible, enhance the historic environment...”*.

398. Policy SWDP 6: ‘Historic Environment’ of the adopted South Worcestershire Development Plan requires that development proposals should conserve and enhance heritage assets, including assets of potential archaeological interest. Policy SWDP 24: ‘Management of the Historic Environment’ of the adopted South Worcestershire Development Plan requires that recording and interpretation should be undertaken to document and understand the asset’s archaeological, architectural, artistic or historic significance and that this should be made publicly available.

399. 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”*.

400. Paragraphs 199 and 200 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. 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: ...a) grade II listed buildings... should be exceptional; b) assets of highest significance, notably schedule monuments...grade I and II\* listed buildings...should be wholly exceptional”*.

401. Paragraphs 201 of the NPPF states that *“where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be*

*demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss...”.*

402. There is no statutory definition of setting for the purposes of Section 66 (1) of the Listed Buildings Act. Annex 2 of the NPPF describes the setting of a heritage asset as *“the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral”.* It goes on to describe significance for heritage policy, stating that this is *“the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting...”.*

403. The PPG at Paragraph Ref ID: 18a-013-20190723 states that *“the extent and importance of setting is often expressed by reference to visual relationship between the asset and the proposed development and associated visual / physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each...”.*

404. 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 NPPF”.*

405. Due to the distance from Hanley Castle Conservation Area, it is considered that the development would not have any effect upon the Conservation Area or its setting. With regard to the Upton-upon-Severn Conservation Area, the submitted Heritage Assessment refers to a number of different character areas as set out in Malvern Hills District Council’s Appraisal and Management Strategy of the Conservation Area. The Heritage Assessment identifies that the most pertinent Character Area to the present assessment is Character Area 2, which comprises the northern undeveloped banks of the River Severn. It also sets out that Character Area 3 is very relevant and that this comprises the southern banks of the river, and also comprises various buildings along Dunn’s Lane and Waterside.

406. The ES, which draws on the Heritage Assessment, states that the significance of both Character Areas 2 and 3 are largely experienced within themselves, where their architectural and historical values are best appreciated. The proposed development would not affect most of the experience of these values and would not harm the significance of the Conservation Area to a large degree. The change engendered would specifically be as a result of alteration to historic open agricultural use in views out from the Conservation Area, largely

the northern riverbank side of character Area 3. Mitigation measures such as planting and screening would mitigate this to some degree but, would in themselves affect currently obtained longer views northwards. The Heritage Assessment states that the question of noise levels has been considered in the submitted Noise Assessment and no significant additional noise (such as may lead to heritage harm) would be introduced to the Conservation Area by the proposals.

407. The proposal is not a long-term 'permanent' form of development. The additional extraction beyond that already permitted would extend the quarry development for approximately two to three years. The site would then be restored, albeit to a lake rather than agricultural fields as is currently. The Heritage Assessment concludes that the proposal would affect the setting of the Upton-upon-Severn Conservation Area, but that this level of harm would be towards the lower end of 'less than substantial harm'.

408. The Heritage Assessment has also assessed whether there would be any harm to the various buildings and their settings within the Upton-upon-Severn Conservation Area that are defined as 'positive buildings' in the District Council's Conservation Area Appraisal; listed buildings; scheduled monuments; and historic park and gardens in the wider area. The Heritage Assessment considers that the proposal would not result in any harm to these heritage assets primarily due to the distance of the proposal from these heritage assets coupled with the presence of intervening features including vegetation.

409. Historic England has been consulted and state that they do not wish to offer any comments on the application and recommend that the MPA seeks the views of the District Council's / County Council's specialist conservation and archaeological advisers, as relevant.

410. The CBA state that notwithstanding the thorough archaeological Written Scheme of Investigation, they are concerned that, overall, the ES tends to sideline heritage matters, prioritising other factors. The CBA specifically have reservations about the lack of consideration for potential impacts on the historic landscape by the design and purpose of the proposed rowing lack in the restoration scheme and made a number of recommendations. In response to the CBA the applicant submitted a Heritage Assessment, updated Written Scheme of Investigation, updated Heritage Assets Plan, updated the restoration scheme and submitted a combined CEMP / LEMP. In response to this further information being submitted, the CBA state that they have no further comments on this application.

411. The District Conservation Officer has raised no objections to the proposal, stating that the assessment of impact and associated heritage information is generally agreed. The proposals are considered to be an acceptable change to the wider setting of the Conservation Area in Upton-upon-Severn and the various built heritage assets.

412. The Gardens Trust state that they have considered the information provided in support of the application and consulted with their colleagues in the Hereford and Worcester Gardens Trust. Based on this, they confirm that they do



not wish to comment on the proposals at this stage. The Hereford and Worcester Gardens Trust have no objections to the proposal.

413. In view of the above, the Head of Planning and Transport Planning considers that the proposals would lead to 'less than substantial' harm to the significance of the designated heritage assets of the Upton-upon-Severn Conservation Area.

414. Notwithstanding this harm is less than substantial, the harm must still be given considerable importance and weight, and considerable weight must be given to the desirability of preserving the setting of the designated heritage assets. Consequently, the fact of harm to a designated heritage asset is still to be given more weight than if simply a factor to be taken into account along with all other material considerations.

415. Paragraph 202 of the NPPF states that *“where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”*.

416. The Government’s PPG at Paragraph Reference ID: 18a-020-20190723 confirms that *“public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress...Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits”*.

417. The Head of Planning and Transport Planning considers that subject to the imposition of appropriate conditions including a programme of archaeological work, an interpretation strategy for cultural heritage, updated restoration scheme, aftercare scheme, 10 year aftercare period for all nature conservation areas, the development being carried out in accordance with the combined CEMP / LEMP with associated compliance monitoring, requiring the site to be restored within a set timescale, no processing or treatment of sand and gravel on site, and restricting lighting, that on balance, in view of the public benefits of the proposal, namely providing a small number of direct employment opportunities (on a peripatetic basis), secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market, that this outweighs the temporary and less than substantial harm to this designated heritage asset.

418. 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”*.

419. The application was accompanied by a Heritage Assessment and an Archaeological Written Scheme of Investigation, which relates to an

archaeological strip, map, and sample excavation. The Heritage Assessment notes that no designated archaeological remains are located within the site. Non-designated archaeological remains identified within the site include:

- Prehistoric and Romano-British archaeological features
- Post-medieval ridge and furrow
- World War II anti-landing and anti-gliding trenches

The Heritage Assessment states that Prehistoric and Romano-British finds indicative of occupation of the landscape have been identified in the vicinity of the application site, and the neighbouring environs. Several other sites with the same geological morphology have been investigated within the wider area with positive results. There is also the possibility that organic deposits may exist in alluvial deposits near the River Severn and other smaller watercourses including within the palaeochannels. Such material may provide information relating to the surrounding natural environment and occupational. Although buried archaeological and palaeoenvironmental remains may be of archaeological interest, the Heritage Assessment states that they are not expected that any such deposits, if present, would be of a level of significance to warrant preservation in situ. Thus, if a suitable programme of archaeological mitigation and management were put in place, in accordance with heritage best-practice, archaeological potential would not place an in principle constraint on development. Due to the probable thickness of the alluvium over any such remains, the archaeological investigation could only be carried out post-determination, following the removal of the overburden (unsaleable materials such as clay or un-saleable silty sand that lies above the mineral) and ahead of sand and gravel extraction.

420. The Heritage Assessment states that possible ridge and furrow earthworks of likely post-medieval date were observed during the site inspection in the south-east corner of the site. During the site visit it was observed that a few ridges are still partially extant on the north part of the field where they were recorded. Ridge and furrow earthworks of medieval date, if they survive well, may commonly be of a level of heritage significance to comprise heritage assets. In the present case, given the later, post-medieval date remnant earthworks and below-ground furrows would not be considered of sufficient heritage value to comprise heritage assets.

421. World War II anti-landing and anti-gliding trenches are recorded within the application site. The proposed mineral extraction would result in the removal of the possible remnants of the trenches associated with the anti-landing and anti-gliding trenches. Given that these remains retain no evidential value and are of overall low heritage significance, their removal / loss would not be a significant archaeological impact and could be mitigated through appropriate archaeological recording.

422. The District Archaeologist comments that given the scale of the development, and the anticipated archaeological potential, the likely impact on the historic environment caused by this development may be offset by the implementation of a conditional programme of archaeological works. The District

Archaeologist wishes to defer to the opinion of the County Archaeologist and confirms that the conditions that the County Archaeologist suggests should be imposed on any grant of planning permission to secure archaeological mitigation.

423. The County Archaeologist has no objections to the proposal, subject to the imposition of conditions requiring a programme of archaeological work including a Written Scheme of Investigation, and an interpretation scheme for archaeology.

424. The County Archaeologist agrees with the conclusion of the Heritage Assessment that continuation of the methodology currently being implemented in relation to extant planning permission MPA Ref: 15/000013/CM for the below-ground archaeology would adequately manage the archaeological resource in the existing quarry and proposed new extension area.

425. Having regard to the advice contained at paragraph 209 of the NPPF, which states *"the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset"*. In view of this and based on the advice of the County and District Archaeologists, the Head of Planning and Transport Planning considers that on balance, subject to the imposition of appropriate conditions, that the impact upon the non-designated archaeological assets is not of such significance as to constitute a refusal reason in this instance. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policy MLP 32 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 6 and SWDP 24 of the adopted South Worcestershire Development Plan.

#### **Residential amenity (including noise, dust, air quality, human health and contaminated land)**

426. Paragraph 185 of the NPPF sets out 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"*.

427. Paragraph 186 of the NPPF goes on to state that *"planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement..."*.

428. Paragraph 187 of the NPPF advises that *"planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have*

*unreasonable restrictions placed on them as a result of development permitted after they were established”.*

429. With specific regard to minerals, paragraph 211 of the NPPF states that *“when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should:...b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality; c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties...”.*

430. Policy MLP 28: ‘Amenity’ of the adopted Worcestershire Minerals Local Plan states that *“planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on amenity or health and well-being. A level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime and taking into account the cumulative effects of multiple impacts from the site and/or a number of sites in the locality, the proposed development will not cause unacceptable harm to sensitive receptors from: a) dust; b) odour; c) noise and vibration; d) light; e) visual impacts; and / or contamination”.*

431. Policy MLP 29: ‘Air Quality’ of the adopted Worcestershire Minerals Local Plan states *“planning permission will be granted where it is demonstrated that the proposed mineral development, including associated transport, will not give rise to unacceptable adverse effects on air quality, and will help secure net improvements in overall air quality where possible...”.*

432. Policy SWDP 31: ‘Pollution and Land Instability’ of the adopted South Worcestershire Development Plan sets out, amongst other factors, that *“A. Development proposals must be designed in order to avoid any significant adverse impacts from pollution, including cumulative ones, on any of the following:*

- *Human health and wellbeing.*
- *Biodiversity.*
- *The water environment.*
- *The effective operation of neighbouring land uses.*
- *An Air Quality Management Area (AQMA)”.*

433. As set out under ‘The Site’ section of this report, the closest residential properties are those off East Waterside, including The Bridge Bungalow, Holly Villa, Bridge End Cottage, Bridge End House and Elm Cottage, which lie

approximately 140 metres to 200 metres to the south of the site. There are also other properties off East Waterside, which lie approximately 230 metres to 260 metres to the south of the site.

434. Other nearby residential properties lie on the western bank of the River Severn. These include Severn Cottages, which lie approximately 250 metres broadly to the south-west of the site. The Pool House caravan park lies approximately 250 metres broadly to the south-west of the site. Pool House, a Grade II property which appears to be marketed as a short-term holiday let, lies approximately 250 metres broadly to the west of the site. There are also a number of boat moorings, on the western bank of the River Severn just to the north of Pool House, which lie approximately 220 metres to the west of the site. Just beyond the moorings are seven chalets.

435. Other residential properties on the western bank of the River Severn include The Cottage, Ballards Farm (Quay Lane Farmhouse) and Bonner's Cottage, which are all Grade II listed properties that lie approximately 530 metres to 580 metres broadly to the north-west of the site. Further residential properties are situated beyond in Hanley Castle, situated along Quay Lane.

436. Ryall's Court (Ryall Court Farm / Surmans Farm) lies approximately 465 metres broadly to the north-east of the site. Ryall Chase and Rag House lie approximately 420 metres and 470 metres broadly to the east of the site.

437. The ES considers the effect of the proposal on population and human health, noise, and effects upon air, including dust, and is accompanied by a Noise Assessment, Noise Management Plan, Dust Action Plan and Health Impact Assessment (HIA) Screening.

438. The Noise Policy Statement for England was published in March 2010 and includes an Explanatory Note. The aim of the document is to *“provide clarity regarding current policies and practices to enable noise management decisions to be made within the wider context, at the most appropriate level, in a cost-effective manner and in a timely fashion”*. It sets 3 aims, which are:

439. *“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*

- *avoid significant adverse impacts on health and quality of life*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life”*.

440. Explanatory Note provides guidance on the levels of 'effect' of environmental noise and gives three levels of effect, namely:

- *‘No Observed Effect Level’ (NOEL). The noise level at which there is no adverse noise impact.*
- *‘Lowest Observed Adverse Effect Level’ (LOAEL). The lowest noise level that an adverse noise impact may occur.*

- *'Significant Observed Adverse Effect Level' (SOAEL). The noise level at which a significant adverse effect upon health and quality of life may occur.*

441. 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 55 decibel (dB)(A) Equivalent Continuous Sound Pressure Level (LAeq), 1 hour (free field), and a higher limit of up to 70dB(A) LAeq, 1 hour (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).

442. The proposed operating hours are between 07:30 to 18:30 hours Mondays to Fridays and between 07:30 and 12:00 hours on Saturdays with no working on Sundays or Public Holidays. These hours mirror the permitted hours of operation for the current quarry.

443. The submitted Noise Assessment assesses the noise impact of the proposal in terms of temporary operations and also normal day to day operations. The Assessment states that temporary, short-term operations in Phase 5 would include soil stripping and overburden handling and storage operations. During these temporary operations a single excavator would strip soils and any overburden loading directly into 2 articulated dumpers which would transport and tip materials in the designated storage / restoration areas. A small bulldozer would be employed to shape the restoration areas as required. These operations would be undertaken over a period of no greater than eight weeks in any working year when close to nearby properties, i.e., at the site boundaries. The Assessment states that normal operations include extraction, loading and progressive restoration, which would be undertaken by the same single hydraulic excavator would lift and load materials into the same articulated dumpers which would transport materials to the wharf loading facility. A wheeled loading shovel would load materials onto a conveyor, via a feed hopper, to load barges for transporting the materials from site.

444. The Noise Assessment makes it clear that the predicted noise levels are based on the worst-case scenario when all temporary operation activities within Phases 4 and 5 are being undertaken simultaneously, and at the closest approach to residential properties.

445. The Noise Assessment demonstrates that the worst-case noise levels generated by temporary operations within the Phase 5 of the southern extension area would remain well below the 70dB LAeq,1 hour noise limit at nearby receptors. The highest being 53dB LAeq,1 hour predicted at East Waterside (without the implementation of mitigation measures), with the next highest noise level being predicted at Pool House, measuring 47dB LAeq,1 hour (without the implementation of mitigation measures). The predicted noise levels for temporary operations fall into the NOEL threshold of impact. As these operations move away from the properties, noise levels generated are expected to be lower.

446. The Noise Assessment demonstrates that noise levels generated by normal day to day operations within the proposed southern extension area, would meet the noise limits derived from the measured background noise levels and would therefore fall into the NOEL threshold of impact. The highest predicted noise level (without the implementation of mitigation measures) would be 52dB LAeq,1 hour predicted at East Waterside, with the next highest noise level being predicted at Pool House, measuring 47dB LAeq,1 hour (without the implementation of mitigation measures) for normal day to day operations.

447. The Noise Assessment recommends a noise limit of 55 dB LAeq,1 hour is set for Rag House and East Waterside, and 54 dB LAeq,1 hour for Pool House and Mooring and Chalets for normal day to day operations. The Noise Assessment recommends a noise limit of 70dB dB LAeq,1 hour for all sensitive receptors for temporary operations.

448. Based on the results of the Noise Assessment, mitigation measures to reduce potential impacts at the nearby receptors are not considered necessary. However, good site management practices would be followed at all times. These good practices have been incorporated into the submitted Noise Management Plan, and include:

- All internal roads would be kept clean and maintained in a good state of repair to avoid unwanted rattle and 'body slap' of vehicles
- All plant within the site would be fitted with broadband ('white noise') reverse warning systems
- On-site speed limit
- Limiting drop heights
- Regular maintenance of vehicles, plant and machinery in accordance with the manufacturer's specifications
- All mobile plant within the site would be fitted with effective exhaust silencers
- Plant that is used intermittently would be shut down when not in use

449. Worcestershire Regulatory Services have been consulted and raise no objections to the proposal, stating they are satisfied that the methodology in the submitted Noise Assessment, which is in accordance with noise impact assessment techniques set out by the PPG, and that measured noise levels and calculated predictions are robust.

450. Worcestershire Regulatory Services are, therefore, satisfied that there would be no adverse noise impacts associated with the proposed workings provided that the quarry operator adheres to good industry practices and maintains all plant and machinery to a high standard. Worcestershire Regulatory Services also considers the proposed working hours are acceptable.

451. With regard to air quality impacts for this application, this primarily relates to dust emissions associated with mineral extraction, storage and handling and traffic exhaust emissions. The ES sets out that there are a small number of residential properties that could be defined as 'dust sensitive' (these include East Waterside, and the dwellings to the south beyond, Pool House, boat mooring / chalets and Rag House and the dwelling to the east beyond). As set out earlier in the report including under 'The Proposal' section, the site would be operated on a 'campaign' basis, and mineral would be exported from the site by barge rather than HGVs. A Dust Management Plan accompanied the application, and dust control techniques include minimising drop heights wherever practicable; dampening down haul roads / stockpiles; and vehicle speed restrictions.

452. The ES states that the background concentrations of Particulate Matter (PM)<sub>10</sub> (particles with a diameter of less than 10 micrometres or less) from all sources were 15.07 micrograms per cubic metre. The annual mean objective, as set out in the *UK Air Quality Objectives* is 40 micrograms per cubic metre. Factoring in the distance that separates the proposed development from the potentially sensitive receptors, the ES considers it is not likely that the development would generate the additional PM<sub>10</sub> that would be required for air quality to exceed the annual objective figure, therefore, no likely significant impact has been identified. The same conclusion was reached by the ES in relation to nitrogen dioxide, applying the same reasoning.

453. The ES also states that the likelihood of dust impacts occurring at distances over 100 metres are very low as the majority of dust emissions are likely to be greater than 30 micrometres in diameter in size and would deposit within 100 metres of the source. None of the potentially sensitive properties identified within 100 metres of the application boundary. Furthermore, all these properties lie in close proximity to classified roads which are likely to be busy with traffic during the same hours the site is operational. Road traffic is a much more significant source of both dust and PM<sub>10</sub>s. As such, the ES concludes that specific measures to mitigate dust impacts are not required as no likely significant impact has been identified.

454. The potential impact of dust on the nearby SSSIs has also been considered in the ES. The ES states that research and study reviews of the effects of dust on vegetation have concluded that typically dust deposition levels over 100 times greater than that which would be expected to cause a dust nuisance would be required to have any possible effects on vegetation. These levels of deposition would be unprecedented from any quarry in the UK and would need to occur for sustained periods of months or years in order for any adverse effects to be apparent. In view of this, dust impact upon the SSSIs has been scoped out of further consideration.



455. The Health and Safety Executive guidance states that *“one of the health risks from working in the quarry industry is that of exposure to fine dust containing crystalline silica (otherwise known as quartz). Quartz is found in almost all kinds of rock, sands, clays, shale and gravel. Workers exposed to fine dust containing quartz are at risk of developing a chronic and possibly severely disabling lung disease known as “silicosis”. It usually takes a number of years of regular daily exposure before there is a risk of developing silicosis. Silicosis is a disease that has only been seen in workers from industries where there is a significant exposure to silica dust, such as in quarries, foundries, the potteries etc. No cases of silicosis have been documented among members of the general public in Great Britain, indicating that environmental exposures to silica dust are not sufficiently high to cause this occupational disease”*. Given the above findings, the ES considers that the proposed development is unlikely to result in significant impacts on human health due to dust or PM emissions.

456. The ES concludes that taking into account the dust control techniques proposed above, the sensitivity of neighbouring properties, meteorological susceptibility and the likelihood of dust emissions occurring, the potential risk of an air quality impact being experienced at any of the potentially sensitive properties identified is very low. Given this finding, it is not considered likely that a significant impact on human health due to air quality issues would be experienced.

457. Worcestershire Regulatory Services are satisfied with the methodology and conclusions of the Dust Impact Assessment and, therefore, recommend that the prevention strategies recommended in the submitted Dust Impact Assessment are made conditional should planning permission be granted. They also advise that conditions should be imposed relating to the formation of bunds and restored areas; mineral extraction and handling including using water suppression and minimising drop heights for material transfer; levels of stockpiling to be monitored and logged daily; and various controls surrounding transportation and plant, including covering of all barge loads. Worcestershire Regulatory Services (air quality) have no adverse comments to make with regard to the proposals and local air quality management.

458. Whilst noting the comments from Worcestershire Regulatory Services in respect of bunds, the ES sets out that there are no above ground bunds proposed as part of this application and that stripped material would be used to restore that part of the quarry where extraction has recently been completed. Therefore, it would not be appropriate in this instance to impose a condition.

459. With regard to the recommendation by Worcestershire Regulatory Services about covering of all barge loads, the applicant states that they have never covered the loads previously, as the materials being carried are in a wet / damp state, the barges are slow moving and CEMEX only load to the water mark to ensure no spillage or overloading. Furthermore, the covering of loads may have health and safety implications, as the crew are required to walk up and down the narrow decks (either side of the load). The applicant states that they have and the MPA have not received any complaints or concerns in this respect for the duration of the operations, since 2016. Dust suppression is used by the contractor and monitored by CEMEX staff regularly. In view of this, the Head of

Planning and Transport Planning considers a condition requiring all barge loads to be covered is not necessary in this instance.

460. Ripple Parish Council recommend that as a precaution a condition should be imposed requiring materials to be worked damp and that haul routes are maintained and watered during dry spells. Conditions are recommended requiring the development to be carried out in accordance with the submitted Dust Management Plan and condition 41 of the extant planning permission MPA Ref: 15/000013/CM relating to dust mitigation measures.

461. With regard to contaminated land, Worcestershire Regulatory Services have no objections to the proposal, stating that they have reviewed the submitted information in relation to contaminated land matters, and conclude that there are no concerns or foreseeable concerns / recommendations to be made.

462. With regard to health and wellbeing impacts, the PPG states that *“it is helpful if the Director of Public Health is consulted on any planning applications (including at the pre-application stage) that are likely to have a significant impact on the health and wellbeing of the local population or particular groups within it. This would allow them to work together on any necessary mitigation measures. A health impact assessment is a useful tool to use where there are expected to be significant impacts”* (Paragraph Reference ID: 53-005-20190722).

463. The submitted HIA Screening and ES conclude that with the adoption of mitigation measures, the details of which are described within the chapters of the ES (namely Noise; Soils, Geology and Hydrogeology; Water (Hydrology); and Air), no likely significant impacts are predicted, and the ‘Impact Category’ for the purposes of the HIA Screening are neutral. The mitigation measures include storing all hydrocarbon liquids in double containment vessels; the implementation of a Pollution prevention Plan; Noise Management Plan and Dust Management Plan.

464. The County Public Health Practitioner has been consulted and has reviewed the application and accompanying HRA Screening and raise no objections to the proposal.

465. The Head of Planning and Transport Planning considers that subject to the imposition of appropriate conditions, the proposal would not have an unacceptable impact upon human health or wellbeing of the local population.

466. It is noted that Ripple Parish Council consider that community consultation should remain in place throughout the operational period of extraction and restoration. A condition is recommended requiring a Community Liaison Group for the duration of the development.

467. In light of the above matters and based on the advice of consultees including Worcestershire Regulatory Services and County Public Health, the Head of Planning and Transport Planning considers that, subject to the imposition of appropriate conditions relating to operating hours; limiting the duration of the development; restricting lighting; extent of mineral extraction; noise limits and monitoring; carrying out the development in accordance with the Noise

Management Plan and Dust Action Plan; limiting height of stockpiles; white noise reversing alarms on mobile plant and machinery; all vehicles and plant being maintained in accordance with the manufacturers' specification; the relevant conditions on the extant planning permission MPA Ref: 15/000013/CM relating to noise and dust mitigation measures; and a Community Liaison Group, that there would be no unadverse effect on residential amenity or human health, including noise, dust, air quality, and contaminated land impacts. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policies MLP 28 and MLP 29 of the adopted Worcestershire Minerals Local Plan, and Policy SWDP 31 of the adopted South Worcestershire Development Plan.

### **Water environment including flooding**

468. Policy MLP 37: 'Water Quality and Quantity' of the adopted Worcestershire Minerals Local Plan states that *"planning permission will be granted where it is demonstrated that the proposed mineral development will protect and, where possible, enhance the quality, quantity and flow of surface water and groundwater resources..."*. Policy MLP 38: 'Flooding' of the adopted Worcestershire Minerals Local Plan states that *"planning permission will be granted where it is demonstrated that the proposed mineral development will avoid increasing flood risk to people and property on site or elsewhere and contribute, where possible, to a reduction in overall flood risk..."*.

469. Policy SWDP 28: 'Management of Flood Risk' of the adopted South Worcestershire Development Plan seeks to minimise the impacts of and from all forms of flood risk, which includes requiring applicants to submit a Flood Risk Assessment for certain types of development, including where the proposal includes land in Flood Zones 2 and 3 (as defined by the latest Environment Agency mapping). Policy SWDP 29: 'Sustainable Drainage Systems' of the adopted South Worcestershire Development Plan seeks to minimise flood risk, improve water requires development proposals and groundwater recharge and enhance biodiversity and amenity interest. Policy SWDP 30: 'Water Resources, Efficiency and Treatment' of the adopted South Worcestershire Development Plan seeks to ensure that water is effectively managed, including reducing the impact of flooding, and maintaining water quality. Policy SWDP 31: 'Pollution and Land Instability' of the adopted South Worcestershire Development Plan seeks to ensure that proposals are designed to avoid any significant adverse impacts from pollution including cumulative ones on, amongst other aspects, the water environment.

470. Paragraph 159 of the NPPF states that *"inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere"*.

471. Paragraph 167 of the NPPF states that *"when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) *the development is appropriately flood resistant and resilient such that in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
- c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan".*

472. Paragraph 162 of the NPPF states that *"the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding"*.

473. Paragraph Reference ID: 7-023-20220825 of the PPG makes it clear that the sequential approach *"is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding"*.

474. It also recognises that *"mineral deposits have to be worked where there is no scope for relocation (and sand and gravel extraction is defined as water-compatible development in the NPPF Annex 3, acknowledging that these deposits are often in flood risk areas). However, mineral workings should not increase flood risk elsewhere and sites need to be designed, worked and restored accordingly"* (Paragraph Reference ID: 7-030-20220825).

475. The proposed development is classed as 'water-compatible development', as identified by Annex 3: 'Flood risk vulnerability classification' of the NPPF. 'Table 2: 'Flood risk vulnerability and flood zone 'incompatibility'" of the PPG shows that 'water-compatible' development is acceptable in Flood 3a (high probability of flooding), and 3b (functional floodplain). In accordance with Table 2, the exception test outlined in the NPPF is not required, subject to being *"designed and constructed to:*

- *remain operational and safe for users in times of flood*
- *result in no net loss of floodplain storage*
- *not impede water flows and not increase flood risk elsewhere"* (Paragraph Reference ID: 7-079-20220825).

476. The ES considers 'Water (Hydrology)', and this is informed by the Flood Risk Assessment Addendum, which also references the Flood Risk Assessment submitted as part of the approved planning application MPA Ref: 15/000013/CM, and Hydrogeological Assessment. As set out in the PPG in Table 1: Flood Zones,

'Flood Zone 3a High Probability' is "*land having a 1 in 100 or greater annual probability of river flooding...*" and 'Flood Zone 3b The Functional Floodplain' is defined as "*...land where water has to flow or be stored in times of flood. Local planning authorities should identify in their Strategic Flood Risk Assessments areas of functional floodplain and its boundaries accordingly, in agreement with the Environment Agency...*".

477. The whole of the application site is situated within Flood Zone 3, as defined by the Environment Agency. Policy SWDP 28: 'Management of Flood Risk' of the adopted South Worcestershire Development Plan as well as draft Policy SWDP 32: 'Management of Flood Risk' of the emerging South Worcestershire Development Plan Review refers to sites needing to be informed by the latest version of the Strategic Flood Risk Assessment. From the Policies Map relating to the South Worcestershire Development Plan Review, which has been informed by the Strategic Flood Risk Assessment, this indicates that all of the site lies within Flood Zone 3a, and that the majority of the site lies within Flood Zone 3b.

478. With regard to the sequential test, the consideration to alternative sites and the location of the development is considered in the 'Alternatives' and 'Location of the development' sections of this report. It is also noted that mineral deposits can only be extracted where it exists, therefore, it would not be possible to locate the quarry somewhere with a lower flood risk, in which the deposits were not present. It is also noted that the proposal is an extension to an existing site, which is already located within the floodplain. The Flood Risk Assessment sets out that "*there are no known deposits of sand and gravel locally with a significantly lower flood risk*". Therefore, it is considered that the sequential test is satisfied.

479. In accordance with Table 2 of the PPG, the exception test outlined in the NPPF is not required, subject to being designed and constructed to: "*remain operational and safe for users in times of flood; result in no net loss of floodplain storage; and not impede water flows and not increase flood risk elsewhere*".

480. The Flood Risk Assessment has undertaken hydraulic modelling of the River Severn and floodplain at the site. The Flood Risk Assessment sets out that the model has been used to investigate the impact of the revised working schemes on flood levels, and that they have factored in the appropriate climate change allowance. The model demonstrates that the proposed development (Phase 5) when operational would lead to a reduction in water levels (flood risk) by approximately 16mm, and the restoration phase would lead to a reduction in water levels approximately 26mm. The model shows that there is a small, though barely significant reduction in water levels at Upton-upon-Severn.

481. In times of flood the applicant has confirmed that the Flood Management Plan that was approved under condition 43 of the extant planning permission MPA Ref: 15/000013/CM would continue to apply to the proposed development. This confirms that the Quarry Manager and barge operator would make daily assessments of the condition of the River Severn, and Quarry Manager would also inspect the watercourses within the site and their outfall to the River Severn. In the event that either the Quarry Manager or the barge operator consider that water levels in the River Severn are sufficiently high to render barge operation

unsafe barging would be suspended and all barges moored safely, either at the wharf at Ryall House Farm Quarry or at the barge operator's premises. The Quarry Manager is signed up to the Environment Agency's Floodline Warning Direct system. If the Quarry Manager is advised to evacuate the site by the Floodline Warning Direct system or from inspections of the watercourses it is apparent that the quarry would be inundated by flood water, the site would be evacuated.

482. All plant and equipment at the quarry would be mobile. In the event that a potential flood event is identified during an extraction / restoration campaign all plant, machinery and any welfare facilities would be removed from site and stored within the temporary soil storage area on higher ground (out of the floodplain) to the north-east of the site. All personnel on site would be evacuated via Ryall Court Farm and Ryall Court Lane, which are not in the floodplain.

483. In view of the above, the Head of Planning and Transport Planning considers that the applicant has demonstrated that the proposal would remain operational and safe for users in times of flood, by demonstrating the proposal is water-compatible development and providing details of safe flood evacuation plan; the proposal would not result in a net loss of floodplain storage, providing a marginal betterment; and would not impede water flows and not increase flood risk elsewhere.

484. The Hydrogeological Assessment, submitted by the applicant sets out that the majority of the site is situated within the floodplain of the River Severn, and is *"typified by an almost flat topography between 12 and 14 metres AOD"*. The Assessment also sets out that the *"majority of effective rainfall on the site would drain to the ditches, boggy areas and ponds which cross the application site and discharge ultimately to the River Severn...Groundwater is expected to be present at approximately 8 – 12 metres AOD, flow in a southerly direction and be in high hydraulic continuity with the Severn River system. The site is located immediately west of the River Severn which flows in a southerly direction"*.

485. The proposed development, as per the extant development approved under MPA Ref: 15/000013/CM is proposed to be worked dry (groundwater pumped out, termed dewatering, to achieve a dry working), given that it is predicted that groundwater would be encountered in each phase well above the base of the sand and gravel. The pumped-out water would be fed into an existing settlement lagoon in the centre of the permitted quarry. Pumping would either be suspended or reduced outside of quarrying campaigns.

486. Dewatering would lower groundwater levels in a radius centred on the point of pumping. The Hydrogeological Assessment demonstrates that radius of influence of the dewatering is restricted by the extent of the aquifer, the sand and gravel layer, which to the east is restricted by the Mercia Mudstone bedrock (e.g., clay) pinching it out, and to the west by the River Severn acting as a recharge boundary.

487. No local groundwater abstractions are located within the predicted radius of influence, including the closest at Ryall's Court. There are three SSSIs located in

close proximity to the application site, Earl's Croome Meadow SSSI and Brotherton Green Meadows SSSI are not considered to be underlain by the terrace sand and gravel and have, therefore, been scoped out of further consideration by the Hydrogeological Assessment. Upton Hams SSSI does have the potential to be in hydraulic continuity with the application site. The Hydrogeological Assessment states that the impact of reduced groundwater levels within Upton Hams SSSI due to dewatering is assessed as not significant. This is because the SSSI is underlain by alluvium clay deposits limiting hydraulic continuity to the sand and gravel that underlies the alluvium in turn, and the River Severn, which intervenes between the application site and the SSSI is likely to act as a recharge boundary. These factors are predicted to limit the drawdown effect east of the river.

488. In relation to groundwater quality, the use of mobile and static plant powered by hydrocarbons carries with them the potential for polluting fuels and lubricants to escape into the wider water environment, either by accident or deliberate act. The sand and gravels are classified as a Secondary A Aquifer (e.g., permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers) by the Environment Agency, making it of regional importance and of medium sensitivity to impact.

489. The open body of water that would result from implementing the proposed restoration scheme would be in continuity with the groundwater. The removal of the overlying unsaturated sand and gravel layer through its extraction increases the risk of groundwater contamination from surrounding land uses and activities migrating to the lake itself. Due to the effect of dilution, however, the significance of this risk is considered to be minor.

490. Water abstracted from the quarry would be discharged into the River Severn as per existing site practice and pursuant to extant Environment Agency Discharge Permit. This would ensure no net loss of water to the river. Prior to discharge water would pass through the existing lagoon, removing any suspended solids. With regard to mitigation measures for potential contamination, the Assessment states that a Pollution Prevention Plan would be implemented for the life of the development that would minimise the risk of hydrocarbons escaping into the wider groundwater environment. The Assessment concludes that given the proposed and extant mitigation measures the potential significance of impacts on the hydrogeological environment are reduced to unlikely and / or insignificant levels.

491. The Hydrogeological Assessment concludes that although the site is located near to the River Severn, the Assessment has demonstrated that impacts upon the surface water and groundwater regimes of the area would not be significant. It is, therefore, considered that the proposed site operations and subsequent restoration would have no lasting significant impact on the water environment.

492. The Environment Agency have been consulted and raise no objections in principle to the proposed development, subject to the imposition of conditions relating to a groundwater monitoring scheme, and a programme of remediation

should the groundwater monitoring scheme provide evidence of deterioration to groundwater and surface water flows and quality.

493. They state that the ES appears to have identified all likely significant detrimental impacts that may result from the proposed development and that appropriate mitigation is available to avoid and reduce any impacts. The Environment Agency have no reason to doubt the submitted Hydrogeological Assessment. The proposed development indicates that the operational phase of the site would have a 'minor' to 'moderate' potential impact upon the water environment and, therefore, further mitigation measures would be necessary. These mitigation measures are to include locating all mineral stockpiles and permanent structures outside of potential flood risk areas; the discharge of all abstracted groundwater back into the Severn River system; and a number of pollution measures relevant to published Pollution Prevention Guidelines. By the implementation of these mitigation measures the significances of potential impacts posed by the site is lowered to 'negligible' and 'minor'.

494. The Environment Agency state that although this development site is located near to the River Severn, this assessment has demonstrated that any impacts upon the surface water and groundwater regimes of the area would not be significant, and are satisfied that the proposed site operations and subsequent restoration would have no lasting significant impact upon the water environment as long as the mitigation options are implemented.

495. The Environment Agency are also in agreement with the Hydrogeological Assessment report that *"in order to mitigate any possible reduction to baseflow of the River Severn by dewatering of the aquifer and interception of groundwater through-flow, it is proposed that discharge of the abstracted water back into the river and / or to the aquifer via infiltration would remove any potential impact. This would reduce the overall significance of potential impacts to 'minor' or 'negligible'".* The Environment Agency concur with this statement. The Hydrogeological Assessment report has stated that *"on-going monitoring of groundwater levels would identify if conditions during site development vary from predicted conditions and would enable appropriate mitigation measures to be incorporated"* and the Environment Agency also concur with this statement and recommend the imposition of appropriate groundwater monitoring.

496. The Environment Agency note that the Flood Risk Assessment Addendum includes updated hydraulic modelling, and that this takes into account current climate change guidance. The Environment Agency have reviewed the analysis of the updated modelling and comparison with 2015 outputs (MPA Ref: 15/000013/CM) and are satisfied that there would be no significant change in fluvial flood risk either at the site, or at downstream locations (including Upton-upon-Severn), as a result of the proposed development.

497. They also comment that a Flood Management Plan is likely to be critical to future operations at this site. A condition is recommended to this effect.

498. South Worcestershire Land Drainage Partnership state that they are only in a position to comment on matters that may affect existing ordinary watercourses



on or adjacent to the site of which there seem to be two that cross the site area. They note that the applicant has submitted a satisfactory Flood Risk Assessment, and comment that statutory consultation is required with the LLFA regarding the Drainage Strategy proposals submitted by the applicant.

499. The LLFA raise no objections to the proposal, noting that the previously approved Flood Risk Assessment for planning permission MPA Ref: 15/000013/CM has been updated to reflect this application. The new allowances for climate change appear to have been considered. In view of this, the LLFA have no issues or concerns with this application. Severn Trent Water Limited also raise no objections to the proposal.

500. With regard to barge movements, there would be maximum of 12 barge loads per day (equating to a maximum of 24 barge movements), each carrying about 165 tonnes per load on average, with a maximum payload of 180 tonnes, transporting mineral from the existing wharf at Ryall North Quarry to Ryall House Farm Quarry for processing. Barges size are all the same size, 89 feet (approximately 27.1 metres) long by 19 feet 4 inches (approximately 5.9 metres) in beam (wide). Each barge has 2 crew members.

501. The applicant has submitted a 'Risk Assessment & Method Statement' for water transport by barge. This includes a plan of the route, identification of hazards and actions, reporting emergencies and incidents and a method statement.

502. The 'Risk Assessment & Method Statement' sets out that in the morning barges would set sail upstream from Ryall House Farm Quarry, taking approximately 30 minutes to sail to Ryall North Quarry. Barges would be loaded, taking about 20 to 30 minutes. The barges would then swing around to face downstream, and sail to Ryall House Farm, taking about 25 minutes, to be unloaded, taking about 20 minutes. Thus, each round trip would take approximately 2 hours. There would be 2 to 3 barges in operation, running 4 loads each per day. Barges when not working would moor at Ryall House Farm Quarry wharf, as is current practice.

503. The CBOA supports this application, noting the proposed use of barges for transport of the material is ideal. The Canal and River Trust have been consulted but state they have no comments to make but should there be any changes to the existing freight by water arrangements as a result of the proposal, the applicant should contact them. The Head of Planning and Transport Planning notes the existing freight (barge) arrangements, approved under planning permission MPA Ref: 15/000013/CM are to continue unchanged. The Head of Planning and Transport Planning recommends the imposition of a condition requiring the development to be carried out in accordance with the 'Risk Assessment & Method Statement' for water transport by barge.

504. In light of the above matters and the advice of consultees including the Environment Agency, Severn Trent Water Limited, South Worcestershire Land Drainage Partnership, the LLFA, CBOA and the Canal and River Trust, the Head of Planning and Transport Planning considers that the proposal would have no

unacceptable adverse effects on the water environment including flooding, subject to the imposition of appropriate conditions relating to groundwater monitoring; a programme of remediation should the groundwater monitoring scheme provide evidence of deterioration to groundwater and surface water flows and quality; the mitigation measures outlined in the Hydrogeological Assessment; the development being carried out in accordance with the Pollution Prevention Plan; a scheme that sets out how the water level within the restored lake would be managed; a Flood Management Plan; the relevant conditions on the extant planning permission MPA Ref: 15/000013/CM relating to water pollution mitigation measures; no discharge of foul or contaminated drainage from the site; and the development being carried out in accordance with 'Appendix G: Risk Assessment & Method Statement' for water transport by barge. The Head of Planning and Transport Planning considers that the proposed development accords with Policies MLP 37 and MLP 38 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 28, SWDP 29, SWDP 30 and SWDP 31 of the adopted South Worcestershire Development Plan.

### **Ecology, biodiversity, and geodiversity**

505. 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"*.

506. 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"*.

507. Policy MLP 31: 'Biodiversity' of the adopted Worcestershire Minerals Local Plan states that *"planning permission will be granted where it is demonstrated that the proposed mineral development will conserve, enhance and deliver net gains for biodiversity..."*. Policy MLP 36: 'Geodiversity' of the adopted Worcestershire Minerals Local Plan states that *"planning permission will be granted where it is demonstrated that the proposed mineral development will conserve, enhance geodiversity..."*.

508. Policy SWDP 5: 'Green Infrastructure' of the adopted South Worcestershire Development Plan sets out, amongst other aspects, that *"once a planning permission has been implemented, the associated Green Infrastructure will be protected as Green Space (SWDP 38 refers)"*. Policy SWDP 22: 'Biodiversity and

Geodiversity' of the adopted South Worcestershire Development Plan states at Part A *“development which would compromise the favourable condition of a SAC or other international designations or the favourable conservation status of European or nationally protected species or habitats will not be permitted”*. Part B of this Policy states *“development likely to have an adverse effect on a Site of SSSI will not be permitted, except where the benefits of the development at that site clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs”*. This Policy goes on to state at Part F that *“development should, wherever practicable, be designed to enhance biodiversity and geodiversity (including soils) conservation interests as well as conserve on-site biodiversity corridors / networks. Developments should also take opportunities, where practicable, to enhance biodiversity corridors / networks beyond the site boundary”*.

509. The ES includes a chapter on flora and fauna and is accompanied an Ecological Impact Assessment, which references that the results of the Preliminary Ecological Appraisal and bat surveys have been used to inform the Ecological Impact Assessment. A combined CEMP / LEMP also accompanied the application.

510. The ES states no waterbodies suitable for either common toads or great crested newts have been identified within the application site boundary, although a number of habitats could be suitable as foraging grounds, commuting and refuge habitats. However, the assessments did identify great crested newts present in a pond (known as Pond 3 within the combined CEMP / LEMP) to the north of the application site, within Phase 4 of planning permission MPA Ref: 15/000013/CM and pending application MPA Ref: 20/000015/CM), located approximately 60 metres north of this quarry extension application. This pond was to be destroyed as part of the permitted planning permissions MPA Ref: 15/000013/CM. In order to allow the quarry to destroy the breeding pond in Phase 4, the applicant sought a Protected Species Licence from Natural England, which was granted in January 2020.

511. The broad licence strategy comprises: a) the enhancement of 4 existing ponds (known as Ponds 1, 2, 4 and 5 within the combined CEMP / LEMP) and the creation of 4 new ponds (known as Ponds 6, 7, 8 and 9 within the combined CEMP / LEMP); b) the exclusion of great crested newts from existing habitat within the quarry footprint, and their translocation into a receptor area at the restored Pond 5, located approximately 285 metres north-east of the application site; c) the destruction of Pond 3 as a result of working of the quarry; and, d) the reinstatement of great crested newt habitat as part of the restoration.

512. Trapping out of great crested newts from within Phase 4 took place in June to July 2020, and an individual great crested newt was found and translocated. Most of the work under the licence has now been completed, with just some fencing removal and the follow-up monitoring remaining.

513. The Ecological Impact Assessment concludes that in view of the above and noting the ecological compensation and enhancement measures that would / have taken place, which demonstrate that there would be a significant gain (net

gain of approximately 10.6 hectares) in terms of habitat creation for great crested newts, that there are no grounds to suggest that the development would result in a significant negative effect upon the conservation status of great crested newts and common toad.

514. The ES states that a previous reptile survey concentrating on the footprint of the permitted quarry immediately to the north of the application site proved negative for their presence. Of the 4 species of reptile that occur in Worcestershire (slow worm, common lizard, grass snake and adder), the presence of all 4 was predicted to be improbable within the application site. This conclusion was reached on the basis that although the application site contains suitable habitat for these species, the presence of a permanent population of any is precluded by the moderately frequent flooding events to which the application site is subject, as it lies wholly within the floodplain of the River Severn.

515. The assessments identify that Tree 11 (as defined in the combined CEMP / LEMP), which is located in the north-east corner of the application site, holds a confirmed bat roost, which was used by a soprano pipistrelle bat. The applicant states that a European Protected Species licence would be required from Natural England in advance of any operations that might disturb bats if they were present, or damage / destroy the roost feature. The roost feature was most recently inspected in January 2022 when it was found to be intact but unoccupied. The proposed mitigation strategy states:

- During Phase 5, Tree 11 would be subject to climb-and-inspect survey for bats by a licenced ecologist. The results of this survey would guide further action as appropriate, comprising:
- An application would be made by a licenced ecologist to Natural England for a European Protected Species Mitigation licence to exclude bats from Tree 11 and to fell the tree
- 2 artificial bat-boxes would be erected on nearby mature trees to be retained, at the same height and aspect as the roost to be lost
- Tree 11 would again be climbed, and the roost cavity inspected by the named ecologist. Upon inspection, should the cavity be found to be empty the roost would be stuffed with a suitable weather-proof material in order to exclude bats, and the tree would be felled within 7 days. If, however, the roost is found to be occupied, a plastic sheet would be fixed to the limb holding the roost and a hole cut in this sheet over the full extent of the roost entrance. A second sheet would then be fixed over this sheet, as a curtain suspended over the entrance. This would allow the bats to exit the roost but prevent them returning as they would not be able to grip the substrate or fly straight into the hole. The following day the roost would be checked again, and if it is found to be empty it would be stuffed

516. The ES states that badgers are known to be present within the application site, although no setts lie within 30 metres of the application boundary.

517. The presence of water vole and otter within the application is considered improbable due to the lack of habitat for the former and previous negative survey result for both species. Common dormouse is also considered improbable due to the poor quality of the superficially suitable habitat, the negative previous survey results, and the moderately frequent flooding history of the application site. The presence of harvest mice is also considered improbable both due to flooding and unsuitable structure of the neutral grassland habitat.

518. The assessments also note that during the nesting season the habitats within the site boundary are exploited by a range of common and widespread bird species. In addition, a barn owl roost site was recorded in a hollow pedunculate oak (Tree 9 as defined in the combined CEMP / LEMP), located in the north-east corner of the application site. No evidence of nesting was recorded, however, the same tree also displayed use by little owl. In view of this, the assessments recommend that no work that might destroy potential bird nesting habitat should be performed within the accepted bird breeding season (March to August inclusive) unless survey by an experienced ornithologist has determined that nesting birds are not present.

519. The combined CEMP / LEMP states that 8 mature trees (pedunculate oaks) would be felled as part of the proposal (Phase 5), however, 9 scattered trees would be retained.

520. In order to achieve the proposed overall landform and habitats, the site would be restored to a suite of habitats, comprising:

- A FISA standard rowing lake
- 8 ponds
- Reedbed
- Swale within reedbed
- Ditches (both field and hedgerow)
- Grassland to accord with MG4
- Wet grassland to accord with MG9
- Agricultural grassland
- Species-rich hedgerows with trees

521. The applicant has submitted a table of biodiversity gain / loss comparing the existing habitat to the proposed restoration scheme for the application site, this states that there would be a biodiversity gain / loss of the following habitats:

- Semi-improved grassland – plus approximately 3.69 hectares
- Improved grassland – minus approximately 9.77 hectares
- Marshy grassland – plus approximately 0.74 hectares
- Standing water margin – plus approximately 0.88 hectares
- Standing water – plus approximately 4.82 hectares
- Running water – plus approximately 0.01 hectares
- Hedgerows – minus approximately 2 metres
- Hedgerow trees – minus approximately 4 trees

- Ditches – minus approximately 28 metres
- Scattered trees – minus approximately 5 trees
- Bare ground – minus approximately 0.11 hectares

522. The applicant has also submitted a table comparing Section 41 habitats that would be delivered by the proposed restoration compared to the existing site within the proposed extension area. This demonstrates that there would be an increase of Section 41 habitat by approximately 9.4 hectares and a loss of approximately 2 metres of hedgerow. However, the applicant states that in order to mitigate this loss of hedgerow, the qualitative value of the hedges has been increased by: a) widening the species diversity and evening-up the species proportions; b) the provision of associated ditches which would act as twig and litter traps to offer habitat to invertebrates and commuting routes to amphibians; and, c) setting in hedgerow trees at 50 metre spacing over the full hedgerow lengths, which would increase the value of the hedges to invertebrates, nesting birds, and commuting and foraging bats.

523. The combined CEMP / LEMP also identifies the following ecological enhancement measures, installing: 6 small bird boxes; 2 barn owl nest boxes; 2 kingfisher nest tubes; 9 bat roost boxes; and 2 artificial otter holts.

524. The Ecological Impact Assessment sets out that *“there are no grounds to predict the development proposed would result in significant negative residual effects upon on or off-site Valued Ecological Receptors nor are their grounds to suggest potential cumulative negative effects in combination with concurrent developments”*.

525. The Ecological Impact Assessment also sets out that the restoration scheme would result in a net increase in habitat extent for 28 legally protected, Section 41 Species and / or Local Biodiversity Action Plan Species present within the proposal and a net reduction in habitat extent for 7 legally protected, Section 41 Species and / or Local Biodiversity Action Plan Species although in no cases is this considered to be ‘significant’. The restoration scheme would also result in a net increase in habitat extent of Section 41 Habitats and Local Biodiversity Action Plan Habitats.

526. Given the presence of European Protected Species, under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, the MPA must consider likely impacts on European Protected Species, in this instance bats and great crested newts, as they are reasonably likely to be impacted by the proposed quarrying activity. This consideration is framed by the ‘three tests’ given in The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Only if the MPA is satisfied that all three tests are met may planning permission be granted. The three derogation tests are:

- i. Does the proposal preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;

- ii. there is no satisfactory alternative; and
- iii. the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

527. With regard to impacts upon great crested newts, it should be noted that a European Protected Species licence has already been granted by Natural England in January 2020 (Licence Ref: 2019-40114-EPS-MIT-3). Most of the work under the licence has now been completed, with just some fencing removal and the follow-up monitoring remaining.

528. With regard to the first test, it is considered that as outlined in the 'Worcestershire's landbank of sand and gravel reserves' section of this report, there is currently a substantial shortfall of permitted sand and gravel reserves in the county, as required by the NPPF. It is also considered that the proposal would provide a small number of direct employment opportunities (on a peripatetic basis), secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the market, resulting in considerable economic development benefits for Worcestershire, demonstrates that Test 1 (overriding public interest) would be met.

529. In terms of the second test in terms of no satisfactory alternative, the County Ecologist states that they cannot see any viable alternative to the great crested newt breeding pond and terrestrial habitat and the loss of a tree on the application site hosting a bat roost. It is not feasible to quarry around these features and preserve their ecological functions, and the works proposed could not be done differently or elsewhere.

530. With regard to the third test, the County Ecologist states that as demonstrated by the fact that a European Protected Species licence has already been granted for great crested newts, they consider there to be adequate mitigation measures proposed to compensate for the loss, and the proposals are considered suitable for Natural England to grant a European Protected Species licence for the loss of the bat roost in Tree 11 (as defined in the combined CEMP / LEMP). The County Ecologist goes on to state that in fact, if the mitigation measures are all implemented as described, the quarry and site restoration have potential to enhance the local bat and great crested newt populations. The County Ecologist notes that the combined CEMP / LEMP outlines the mitigation strategies already agreed / to be agreed with Natural England.

531. In view of the above matters, the Head of Planning and Transport Planning Regulation considers that the "derogation tests" in the Habitats Directive can be met.

532. There are a number of statutory and non-statutory wildlife designated sites within 2 kilometres of the proposal, as outlined within 'The Site' section of this report. This includes the Upton Ham SSSI, which is located about 430 metres broadly south of the application site on the western bank of the River Severn.

Earl's Croom Meadow SSSI is located about 1.2 kilometres broadly to the north-east of the site. The Brotheridge Green Meadows SSSI is situated approximately 1.5 kilometres west of the proposal. The River Severn LWS lies approximately 165 metres to the west of the proposal with the Pool and Mere Brooks LWS lying about 255 metres broadly to the west of the site. The Stocks Yatt Meadow LWS lies approximately 870 metres broadly to the south of the site.

533. Natural England and Worcestershire Wildlife Trust have both been consulted due to the proximity of the proposals to SSSIs and LWSs, respectively.

534. Natural England have no objections to the proposal, stating that the proposed development would not have significant adverse impacts on designated sites, including Upton Ham SSSI, Brotheridge Green Meadows SSSI and Earl's Croom Meadow Site of SSSI, which lie with the locality of the application site.

535. Worcestershire Wildlife Trust have no objections to the proposal. They note the revised restoration scheme and combined CEMP / LEMP offer some helpful comfort around biodiversity enhancement opportunities for the site. Accordingly, provided that the changes and conditions suggested by the County Ecologist are implemented, they do not wish object to the application and defer to the opinions of the County Ecologist for all on-site biodiversity considerations for this application.

536. The County Ecologist has no objections to the proposal, subject to the imposition of conditions regarding an updated restoration scheme (correcting mislabelling), 10-year aftercare scheme for all created / restored habitats (apart from the agricultural grassland, which shall be in aftercare for a 5-year period), a monitoring report in relation to statement of compliance for habitat creation and the development being carried out in accordance with the submitted combined CEMP / LEMP.

537. The County Ecologist is satisfied that the application sets out measures to secure greater biodiversity enhancement than previously secured for the whole site. The submitted habitat comparison table is considered to illustrate measurable net gains for biodiversity between the consented and proposed restoration schemes.

538. Malvern Hills District Council states that ecological mitigation and enhancement measures should be secured by planning condition if planning permission is granted, and they recommend that the applicant / their ecologist be required to submit compliance statements to confirm that the necessary mitigation and enhancement measures have been provided.

539. The RSPB state that they are sympathetic with the combined after-use for recreation (rowing) with nature conservation. However, they would like to see better use of the opportunity to integrate the elements of the restoration scheme to deliver greater biodiversity and ecosystem service benefits, whilst maintaining the integrity of the rowing course.



540. The combined use would need careful planning to ensure integrity of the nature conservation elements without impact on the recreational purpose. This in particular should address two elements i) minimising the potential disturbance to wildlife caused by the rowing activity and events, and ii) the integration of habitats to the north and west of the lake. They consider that no value for breeding waders would be gained from the areas of wet grassland to the east of the lake due to a) proximity of the access track causing disturbance and b) the planting of trees to its immediate eastern edge which would provide convenient perches for predators e.g., corvids. They also consider that the wet grassland proposed to the west (north of the reedbed) measuring approximately 1 hectare is too small and also would suffer disturbance from the access track. The RSPB state that a created waterbody does not automatically conform to the definition of the Section 41 habitat, particularly as this one is intended for recreational use.

541. The RSPB also state that the Ecological Impact Assessment does not contain any up-to-date site data, the most recent being 15 years old. Furthermore, they state that the list of species of the on-site Valued Ecological Receptors includes a number of species that are not associated with the habitats present now or proposed, including willow tit and tree pipit.

542. With regard to the comments from the RSPB that the lake might not deliver Section 41 Habitat of Principal Importance, the applicant has set out that CEMEX did specifically fund a study to direct the restoration to provide habitat for a specific species, the soprano pipistrelle bat, which is a Section 41 Species of Principal Importance. They also set out that the lake sections and bed gradation in the western side are designed to deliver habitat for aquatic invertebrates upon which the bat predated. The reedbed is designed to offer an undulating dished surface that would offer the bat the sheltered hunting topography it favours. Every plant species is specifically chosen because it is proven to be a larval foodplant of an invertebrate species predated by the bat. The applicant has also set out that the land was not designed as a bird sanctuary but to facilitate water sports with a specific bat species in mind. Notwithstanding this point, they have stated that amongst other measures, the lake has been designed so that the western side would be free of trampling. They have also set out that the restoration was designed to compensate existing species on site and in the surrounding area and to improve conditions that would, once the development is complete, enable them to flourish.

543. With regard to the comments from the RSPB about the habitat data being out of date, the applicant has clarified that the data upon which the Ecological Impact Assessment is based are not 15 years old. They have set out that biological records were obtained, and habitat data recorded in 2017. They have also set out how the Ecological Impact Assessment was conducted in March 2020 and, therefore, the data is not out of date.

544. In terms of RSPB's comments that the list of on-site valued ecological receptors is incorrect and inaccurate, the applicant considers that the list of on-site valued ecological receptors overestimates the probable site interest, as it includes some species that are not associated with the habitats present now or proposed in the restoration. They consider that willow tits, tree pipits, grasshopper warbler, turtle dove and lesser spotted woodpecker may now

reasonable be scoped-out, due to various measures including the nature of the habitat. The applicant also points to guidance published by the Chartered Institute of Ecology and Environmental Management (CIEEM) that the 'emphasis in Ecological Impact Assessment is on 'significant effects' rather than all ecological effects'. The applicant's consultant ecologist, therefore, considers that no further action is warranted.

545. In response to a Regulation 25 Request (further information), regarding the restoration scheme's biodiversity credentials and requesting access restrictions to the western lake margin in order to provide a buffer area to protect nature conservation integrity of the western side of the lake, the applicant confirms that it is the landowner's intentions are to restrict public access to the site and that the lakeside track is simply for maintenance purposes. The applicant is proposing to install permanent stock fencing / padlocked gates, that would exclude the public and dogs from the reedbed on the western side of the lake, and from the locations of the two artificial otter holts. Signage warning of the restricted access and reason for this restriction is also proposed to be installed. The applicant also amended the restorations scheme as a result of the Regulation 25 Request:

- Expanding the reedbed northwards on the western bank to facilitate greater ecological functionality
- Enlarging the open water areas on the western bank to increase the interface between reedbeds and open water to improve ecological functionality
- The reedbed area on the western bank of the lake is now in connection with the main lake
- The western bank of the lake has been made more sinuous
- Wet grassland swales / rills have been added to the grassland at the northern end of the lake. These sloping shallow cuts should hold water in the spring and are an important feature for breeding waders

546. In response to a Regulation 25 Request (further information request), the applicant has provided further information about whether any of the trees to be lost are 'veteran trees', confirming that the 8 oak trees within the site are mature trees but are not veteran trees. The County Landscape Officer is satisfied that the further information has demonstrated that the trees, within the proposed southern extension are not ancient or veteran trees.

547. As set out under 'The Site' section of this report, the site is hydrologically linked to the Severn Estuary SPA and SAC which are European designated sites. The Severn Estuary is also a Ramsar Site (of international importance) and is also designated as a national level as the Upper Severn SSSI, which is located approximately 34 kilometres south-west of the site. Despite the distance from these European sites, the application site is hydrologically linked to them and hence has the potential for impacts through functional hydrological connectivity and the potential presence of migratory species within the upper River Severn catchment.

548. The Government's PPG provides advice and guidance planning applications which may impact upon European sites, stating *"all plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site. This consideration – typically referred to as the 'Habitats Regulations Assessment (HRA) screening' – should take into account the potential effects both of the plan / project itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the plan or project for that site, in view the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of overriding public interest and if the necessary compensatory measures can be secured"* (Paragraph Ref ID: 65-001-20190722).

549. The PPG goes on to state that *"if a proposed plan or project is considered likely to have a significant effect on a protected habitats site (either individually or in combination with other plans or projects) then an appropriate assessment of the implications for the site, in view of the site's conservation objectives, must be undertaken (Part 6 of the Conservation of Habitats and Species Regulations 2017)...A significant effect should be considered likely if it cannot be excluded on the basis of objective information and it might undermine a site's conservation objectives. A risk or a possibility of such an effect is enough to warrant the need for an appropriate assessment. The conservation objectives relate to each of the habitats and species for which the site was designated and will be provided in more detail by Natural England. A competent authority must consult Natural England for the purposes of the assessment and must have regard to any representations that Natural England may wish to make within a reasonable time (as specified by the competent authority)"* (Paragraph Ref ID: 65-002-20190722).

550. The MPA as the competent authority have carried out a HRA screening assessment to identify whether the proposal would result in likely significant effects upon European sites. The HRA screening assessment concluded that *"likely significant effects' to the conservation objectives of the River Severn SPA / SAC / Ramsar could not be ruled out in relation to water quality and subsequent potential impacts on migratory fishes"*. Therefore, these effects required further consideration at the HRA AA stage to determine whether, in light of any mitigation and avoidance measures, they would result in adverse effects on the integrity of the above European sites, either alone, or in combination with other plans and projects.

551. The MPA have carried out a HRA AA, which concludes that with the implementation of the mitigation measures, adverse effects on the integrity of the qualifying features of the Severn Estuary SAC / SPA / Ramsar Site would be avoided both alone and in-combination with other projects. Furthermore, with the implementation of the proposed enhancement strategy the development

may provide a significant beneficial effect on qualifying features of the Severn Estuary SAC / SPA / Ramsar Site.

552. Mitigation Measures outlined in the HRA AA include no ground raising in the floodplain; with all soil / overburden constructed outside of the floodplain; there would be compensatory storage in respect of any loss of floodplain; and water abstracted from the workings would be discharged into the River Severn via settlement lagoons to ensure no net loss of water and that any discharge would be regulated via a discharge permit in terms of controlling quality and quantity. General pollution prevention measures would be employed to ensure ground and surface waters are not contaminated. In terms of water quality, discharge of the abstracted water back into the river and / or aquifer would be via infiltration.

553. Various other measures to mitigate the risk of surface or groundwater pollution occurring would include a traffic management system to reduce potential vehicular collisions; site speed limit; plant being regularly maintained and inspected; refuelling of vehicles to be undertaken in a dedicated compound area; maintenance of plant and machinery to be undertaken within the site compound or off site; and soil movements and excavations would be undertaken to minimise the generation of silt. A Surface Water Management Plan would be prepared to ensure off-site discharges of surface water are of an acceptable quality prior to discharge to the receiving watercourse.

554. A risk assessment and method statement for water transport by barge accompanied the application. Mitigation measures outlined in this assessment include log guards are fitted around the propellers of the barges, to prevent damage to the barge and therefore risk of incident to the River. Crew members keep in contact with commercial vessels on the River via radio, and keep a watch on unknown watercraft. Emergency procedures are in place, along with a risk-assessed method of working.

555. Biodiversity Protection Zones have been specified in the submitted combined CEMP / LEMP, in which quarry vehicles and staff must not enter. This would protect sensitive ecological features on site.

556. In addition, in response to original comments from the Environment Agency regarding the HRA AA did not adequately address the potential impacts on migratory fish during mineral extraction, the applicant submitted additional information to address their concerns and the HRA AA was updated accordingly. Additional mitigation measures include construction activities with a direct or indirect pathway for impact on the River Severn should be limited during the identified key life stages periods for the identified fish species; ensuring that over pumping of the pits / settlement ponds is delayed for at least 7 days following a flood to enable turbidity levels to reduce; surface pumps are used to ensure that bottom sediments and nutrients are not disturbed; implementation of the submitted Fish Rescue Plan; and existing pumps should be fitted with fish screening or replaced with fish friendly pumps.

557. In response to the submitted additional information relating to migratory fish and the updated HRA AA, the Environment Agency confirm that the additional information comprehensively addresses their previous concerns regarding:

- Turbidity, siltation and associated habitat loss and nutrient enrichment
- Potential capture of fish on site during the works
- Clear pathways / mechanisms are in place to enable fish / eels to return to the river

558. The Environment Agency state that the proposed Fish Rescue Plan may be secured by an appropriately worded condition, and that they have no further comments to make on the HRA AA.

559. Natural England state that they have reviewed the updated HRA AA, which includes an update in response to the Environment Agency's original comments on migratory fish, and note the Council concludes that the proposal would not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that they concur with the HRA AA conclusions, providing that all mitigation measures are appropriately secured should planning permission be granted.

560. Based on the above comments from Natural England and the Environment Agency, the Head of Planning and Transport Planning recommends the imposition of conditions requiring the implementation of the mitigation measures set out in the HRA AA.

561. With regard to geology, in response to the Herefordshire and Worcestershire Earth Heritage Trust's initial comments requesting access for geologists and vigilance during the extraction process, alerting all operatives to the possibility of fossil finds, the applicant has confirmed that they happy to arrange periodic access for the Earth Heritage Trust so that the exposures of the Holt Heath Sand and Gravel member and the Worcester Sand and Gravel member can be visually inspected and recorded. The applicant states that all CEMEX site operators are trained to recognise significant finds when carrying out the day-to-day excavation of minerals from their quarries. Large mammal bones for example, and any evidence fossils are required to be reported directly to the quarry manager. This in turn can be reported directly to the Geological Services Department of CEMEX UK Operations. The applicant also states that at Ryall North Quarry, they would also seek to leave behind small exposures of the river terraces on the outer banks of the excavation if operationally feasible, safe to do so and public access permits. This would enable future field trips to be able study the exposures that would not previously have been visible. CEMEX also regularly flies the site at Ryall North Quarry with its survey drone. This photographic evidence is detailed enough to record changes in the strata and patterns of deposition for the future study the sedimentology of the Severn Terraces.

562. In response to the above clarification, the Earth Heritage Trust confirmed they had no further comments provided the applicant adheres to their stated commitments.

563. In view of the above, and taking into account the views of consultees including Natural England, the Environment Agency, Worcestershire Wildlife Trust, the County Ecologist, County Landscape Officer, and Earth Heritage Trust, the Head of Planning and Transport Planning considers that the “derogation tests” in the Habitats Directive can be met and subject to the imposition of appropriate conditions that the proposed development would have no unacceptable adverse impacts on the ecology, biodiversity and geodiversity at the site or in the surrounding area, including European sites, and would enhance the application site’s value for biodiversity, in accordance with Policies MLP 31 and MLP 36 of the adopted Worcestershire Minerals Local Plan, and Policy SWDP 22 of the adopted South Worcestershire Development Plan.

#### **Restoration and aftercare of the site**

564. 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).

565. The PPG 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 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”*.

566. Policy MLP 9: ‘Lower Severn Strategic Corridor’ of the adopted Worcestershire Minerals Local Plan states that:

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

- a) create wetland features such as fen and marsh, wet grassland, reedbed and lowland meadows during both working phases and as part of restoration and after-use, including where the following characteristic agricultural land uses are incorporated:*

- *cropping and horticulture in the Settled Farmlands on River Terraces landscape type;*
  - *pastoral land use in the Riverside Meadows and Wet Pasture Meadows landscape types;*
- b) *conserve, enhance and restore characteristic hedgerow patterns and tree cover along watercourses and streamlines;*
- c) *create accessible semi-natural green space, incorporating information or routes which increase the legibility and understanding of the geodiversity, heritage and character of the area.*

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

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

567. The reasoned justification to this policy states:

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

568. It is considered that the proposal would broadly accord with Policy MLP 9 because, as set out under the ‘Background’ and ‘The Proposal’ sections of this report, restoration would take place in a progressive manner with soils stripped within the phase cast back to restore previously extracted areas behind the current working face. The applicant has submitted a restoration scheme as part of this application and the parallel pending planning application MPA Ref: 20/000015/CM. Whilst the site would primarily be restored to a lake (amenity), the revised restoration scheme also includes a variety of different uses, including agriculture (restored to BMV quality), amenity (inclusion of public rights of way around the eastern, northern and north-western perimeter of the proposed lake), and nature conservation. The restoration scheme includes a lake, ponds, reedbeds, swales, ditches, wet and dry conservation grassland, agricultural grassland, and species-rich hedgerows with trees, providing a net

gain for biodiversity compared to the existing site / consented restoration scheme.

569. It is noted that Natural England, Worcestershire Wildlife Trust, the County Ecologist and County Landscape Officer all raise no objections to the restoration scheme, subject to appropriate conditions.

570. The applicant proposes that those areas of the site to be restored to agricultural use would be subject to a 5-year aftercare programme, whilst nature conservation areas would be subject to a 10-year programme, this includes the lake itself. The Head of Planning and Transport Planning considers that this approach is broadly acceptable but that the areas that shall undergo aftercare management for a 10-year period should also include the proposed MG9 grassland and MG4 wet grassland, as recommended by the County Ecologist and County Landscape Officer. A condition is recommended to this effect. A condition is also recommended requiring an interpretation strategy for cultural heritage, landscape, ecology and geodiversity.

571. In relation to financial guarantees, the responsibility for the restoration and aftercare of mineral sites lies with the operator, and in case of default the landowner. The applicant is a Member of the Mineral Products Association Restoration Guarantee Fund, which provides guarantees to planning authorities against a restoration default. Paragraph 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.*

*However, where an operator is contributing to an established mutual funding scheme, such as the Mineral Products Association Restoration Guarantee Fund, it should not be necessary for a mineral planning authority to seek a guarantee against possible financial failure, even in such exceptional circumstances”.*

572. Furthermore, the application proposes progressive restoration for the overall site over 5 phases, with this proposed quarry extension application only forming a single phase, and it is not considered that a maximum of 3 years to work and restore the site is very long-term in the context of mineral extraction and restoration. The development does not propose a novel approach or technique to mineral extraction or restoration, and the Head of Planning and Transport Planning has no reason to believe that there is a likelihood of financial or technical failure. Therefore, it is not necessary for the Mineral Planning Authority to seek a financial guarantee in this instance.



573. A number of comments have been received about future access to the site as well as comments about future buildings and infrastructure. Malvern Hills District Council have referenced that public access to any new associated buildings / facilities should be secured as part of any planning permission.

574. CPRE state that they do not object to the principle of the proposal provided the imposition of conditions prohibiting the use of powerboat craft; prohibiting mooring of vessels other than sailing or rowing boats, including house boats and other vessels used as residential or holiday accommodation; and prohibiting the erection of any building ancillary to leisure without further planning consent.

575. Severn Stoke Parish Council are concerned about the potential additional traffic generated by a water sports facility and whether the viability splays are adequate.

576. Ripple Parish Council have noted that other examples of lakes to FISA standards indicate that they all appear to have attracted significant subsequent infrastructure in terms of cafes, clubhouses, parking and road infrastructure in support of their facilities in order that they may be essentially self-sufficient in their operation.

577. Earls Croome Parish Council are concerned that no detailed proposed plans have been submitted to either the MPA or Malvern Hills District Council regarding the rowing lake itself and indeed, no indication as to future commitments regarding who will manage, fund, deliver and maintain such a significant and complex transformation project going forward.

578. Sport England have requested that that further consideration is given to securing the provision of additional infrastructure that would be necessary to facilitate the use of the lake for water sports. They understood that Upton Rowing Club have aspirations to develop a boathouse at the lake, and query whether the potential site for the boathouse could be identified on the submitted plan.

579. Sport England state that no access road to the west side of the lake is shown on the submitted plans. A suitably hard surfaced access would likely be required to provide a means of towing boats to and from the boathouse. The existing access from the south onto the A4104 would appear to potentially provide a means of access to the east side of the lake. They therefore request that suitable provision be put in place to provide a serviced area of land for which a boathouse could be constructed. A suitably sized car park area would also be required to service the use of the lake, since a facility of this size would attract users from outside the local area. It is therefore requested that the outline restoration plan be developed further to address these points.

580. In addition, Sport England request that consideration is given to seeking a Section 106 contribution from the applicant towards the capital cost of developing a boathouse.

581. A letter of representation also objects to the proposal on the grounds that it would be easier to despoil this green space, in a later planning application, with car parks and buildings if the lake is already in situ.

582. In response to the above comments, the applicant states that CEMEX recognise the concerns raised by the various bodies, however, they remind all parties that their requests fall outside the scope of the planning submissions. The applications in front of the MPA are principally minerals applications that would facilitate a potential future sports facility for rowing. Future infrastructure, parking and access / egress arrangements lie beyond their scope and are ultimately a matter for third parties in terms of submission and the local district planning authority in terms of determination. CEMEX, therefore, cannot see any benefit in providing a plan, even for illustrative purposes, because this would be meaningless, and could lead to potential future confusion when future submissions are possibly made by other applicants.

583. Notwithstanding the comments from consultees about access to potential facilities, the Head of Planning and Transport Planning notes that the application before the MPA relates to the extraction of aggregates and also a restoration scheme, which includes a lake suitable for water sports. The Government's PPG states that "*separate planning permission is likely to be required for most forms of after-use, except:*

- *agriculture and forestry;*
- *uses for which planning permission is granted under a Local Development Order;*
- *nature conservation and informal recreation which do not involve substantial public use.*

*Applications for after-use will usually be decided by the district planning authority but in some instances, and depending on the type of after-use, responsibility will rest with the mineral planning authority" (Paragraph Reference ID: 27-046-20140306).*

584. Should planning permission be granted by the MPA for the current proposal, it is considered that a separate subsequent planning application(s) for use of the lake for formal recreation such as rowing and associated facilities such as a boathouse, would be required to be submitted to Malvern Hills District Council for consideration at a later date, therefore, this application for mineral extraction and subsequent restoration should be considered on its own merits.

585. In response to the requests from Sport England and Ripple Parish Council for Section 106 contributions for rowing lake supporting infrastructure including a boathouse, and redevelopment of Ryall Recreation Ground, respectively, the Head of Planning and Transport Planning considers that these requests would not pass the tests for planning obligations (necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development). As set out at paragraph 57 of the NPPF, planning obligations must only be sought where they meet all of these tests.

586. The Head of Planning and Transport Planning notes that the Environment Agency, Natural England, Worcestershire Wildlife Trust, the County Ecologist and County Landscape Officer all have no objections to the proposed restoration scheme, subject to the imposition of appropriate conditions including requiring the site to be restored within a set timescale, annual topographical surveys, the development being carried out in accordance with the combined CEMP / LEMP with associated compliance monitoring, updated restoration scheme, aftercare scheme, 10-year aftercare period for all nature conservation areas, and interpretation strategy for cultural heritage, landscape, ecology and geodiversity. The Head of Planning and Transport Planning considers that the proposed restoration and aftercare is acceptable.

### **Impact upon festival land**

587. The proposed development would further encroach into Fish Meadow and adjacent fields, which is a venue and / or campsite for three annual music festivals (Sunshine Music Festival, Mello Festival and Upton Blues Festival) in Upton-upon-Severn.

588. As set out earlier in the 'Other Representations' section of this report, a letter of representation has been received about the loss of land used in association with various festivals, as well as the potential impact on businesses resulting in them closing.

589. Upton-upon-Severn Town Council fully supports the application, but they recommend that the additional extraction into Fish Meadow is phased to commence after the summer festivals are over i.e., September 2022 onwards, and avoiding the summer seasons in subsequent years.

590. A letter of representation has been received objecting on the grounds of stopping the Upton Blues Festival, as Fish Meadow is used for camping for this festival.

591. A letter of representation has also been received from the organiser of the Sunshine Music Festival and Mello Festival, stating that whilst they do not object to the scheme in principle, they are extremely concerned about the disruption that it would cause to these two festivals. They request that a condition is imposed requiring the applicant to structure the work schedule in a way that would minimise disruption over the two festival weekends. As part of the festival infrastructure, they have installed electric cables and water pipes under the ground in the areas to be excavated, therefore, they request a condition is imposed requiring the applicant to replace the cables and pipes, if they are removed as part of the works.

592. The applicant has set out that the current operations (as per the extant consent 15/000013/CM) amount to a loss of an area of approximately 7.1 hectares, whilst the proposal would amount to an additional 11.2 hectares (total loss of approximately 18.3 hectares). The festival land straddles both the existing extant site and the proposal under the current application.

593. The applicant states that they understand that the festivals are conducted on private land on the basis of a short-term renewable lease which provides an

additional annual income for the landowners. The festival organisers do not enjoy any rights of tenure and are at the behest of the landowners and their tenants. Whilst generally sympathetic to the festivals, particularly given its contribution financially to the local community it is nevertheless at the landowner's prerogative as to whether they wish them to continue in this location. The applicant goes onto state that CEMEX have in consultation with the landowners designed a restoration scheme that does not comprise the ability for both parties to continue their current commercial arrangement. The applicant highlights that there is substantial land retained between the proposed lake and the River Severn to accommodate the festival. CEMEX understand that the landowners have provided reassurances to the festival organisers that their event can continue, and that additional land may also be available. For instance, this year saw the festival held in June on a slightly different footprint than normal, due to the fact that a portion of land used for agriculture was unavailable.

594. The applicant states that they are in contact with the festival organisers and have been made aware of the cables / pipes under the application site and the area they are currently working (Phase 4), with the cables / pipes being isolated. The applicant is in discussions with the festival organisers to ascertain the type of pipes / cables and locations / extent within the proposed southern extension (Phase 5).

595. The applicant goes onto state that whilst they consider the proposal does not prejudice the ability for the festival to continue during and after their operations, they shall seek to be as accommodating as possible with regards to the festival.

596. The Head of Planning and Transport Planning considers that in relation to the request for a condition requiring the applicant to replace the cables and pipes should they be removed as part of the works, that this would not pass the tests of conditions (necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects), as this amounts to a private matter relating to third party private rights over (or under) the landowners land. Any claim over damage to property would be a civil matter between the relevant parties. An informative note is recommended to be imposed on any planning permission highlighting the presence of these cables and pipes.

597. In view of the above, the Head of Planning and Transport Planning considers that the proposed development would not prejudice the future viability of festivals in this location.

### **Economic Impact**

598. 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 independent 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. In particular, the NPPF sees the economic role of planning as *"to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved*

*productivity; and by identifying and coordinating the provision of infrastructure"* (Paragraph 8).

599. The NPPF at paragraph 81 states that *"planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"*.

600. Paragraph 209 of the NPPF states that *"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"*. Paragraph 211 of the NPPF states that *"when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy"*.

601. The applicant states that the proposal would result in the continued employment of 20 members of staff based at Ryall House Farm Quarry processing plant site. There would also be other additional staff involved with the site on a peripatetic basis (approximately 6 employees). The applicant states that these posts would be lost if the development is not permitted as Ryall House Farm Quarry processing plant site would have to close once the permitted reserves at Ryall North Quarry are exhausted.

602. The applicant states that the Office for National Statistics (ONS) Annual Survey of Hours and Earnings states that the median gross annual earnings within the mining and quarrying industry sector was £40,187 per full time job in 2018. On the basis of the above, approximately £602,805 would be paid in wages to staff per annum. Many of the staff live locally to the quarry. Over the life of the proposed development this equates to approximately £1.2 million over the life of the proposed extension, although this figure does not account for annual pay rises, which are generally in the order of 2%.

603. The sale of primary aggregates such as that produced at Ryall North Quarry is subject to a tax [Aggregate Levy] of £2 a tonne, payable to Her Majesty's Revenue and Customs (HMRC). This equates to approximately £490,000 per annum paid to HRMC (on the basis of the predicts annual sales of approximately 245, 000 tonnes of aggregate per annum).

604. Gross Value Added (GVA) is an economic productivity metric that measures the contribution of a corporate subsidiary, company or municipality to an economy, producer, sector or region. Gross value added provides a value for the amount of goods and services that have been produced in a country, minus the cost of all inputs and raw materials that are directly attributable to that production. The applicant states that the 2018 edition of Profile of the UK Minerals Products Industry, published by the Minerals Products Association states that the GVA associated with sand and gravel quarrying in the UK in 2016 was approximately £896 million on the basis of approximately 62.7 million tonnes extracted. This equates to approximately £14.29 per tonne of sand and gravel. With regard to the proposed development, based on the estimated annual rate of

sales of 245 000 tonnes, and a development lifespan of approximately 2 years, using the 2016 GVA figure the economic contribution of the development would be in the region of approximately £7 million, excluding inflation. However, the applicant does acknowledge that the overarching GVA figure may include the individual contributions made by those aspects outlined above and that adding the GVA figure to the above may result in a degree of double counting.

605. The application submission is accompanied by letters of support from Upton Rowing Club, Upton Town Partnership, Upton Business Association and West regional Rowing Council. However, all these letters relate to the use of the lake as a proposed rowing lake. As noted in 'The Proposal' and 'Restoration and aftercare of the site' sections of this report, a separate planning permission would be required from Malvern Hills District Council for the use of the lake for formal recreation, such as rowing together with any ancillary infrastructure. In view of this, it is considered that this application should be considered on its own merits (e.g., are the proposed mineral extraction and restoration landform acceptable in planning terms). Ripple Parish Council also comment that a Draft Business Projection Plans to substantiate the immediate or long-term sustainability of the water sports proposals is required, but as outlined above, that would be the subject of a separate application to the District Council and is not considered relevant to the determination of this application.

606. The Head of Planning and Transport Planning considers that securing existing jobs, the proposal would support communities and thereby provide a social benefit. Furthermore, by providing jobs and a service to other businesses, it would contribute to the local economy. In so far as it provides these social and economic benefits, the proposal would accord with the aims of the NPPF.

607. The South Worcestershire Development Plan sets out targets for growth up the plan period of 2030, including the building of 28,400 new houses, the development of 280 hectares of land for employment, and an additional 39,507 square metres of retail floor space. These developments will require aggregate raw material to allow the various development projects to proceed. Furthermore, the emerging South Worcestershire Development Plan Review sets out updated targets for growth up to the plan period of 2041, including delivery of at least 13,957 additional new dwellings, 316 hectares of new employment land and 2,000 square metres of new retail floorspace.

608. It is also noted that the Minerals Product Association estimates that "*the construction of a typical new house uses up to 50 tonnes of aggregates - from the foundations through to the roof tiles*". Further aggregates are required for the construction of any supporting infrastructure and in the maintenance and refurbishment of the existing housing stock and other types of development. But broadly, based on this figure of 50 tonnes, the proposed development would provide enough aggregate for the construction of approximately 9,500 homes.

609. The Head of Planning and Transport Planning acknowledges that the NPPF affords significant weight to the need to support economic growth and notes that paragraph 209 of the NPPF states that "*it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs*". Paragraph 217 of the NPPF also states that "*when*

*determining planning applications, great weight should be given to the benefits of the mineral extraction, including to the economy”*. It is considered that the proposal would provide a small number of direct employment opportunities (on a peripatetic basis), help to support and retain the existing jobs at Ryall House Farm Quarry, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market. Therefore, it is considered that the proposal would provide substantial sustainable economic growth benefits to the local economy in accordance with the NPPF and this weighs in its favour.

## **Other matters**

### Overhead power lines

610. 66kV overhead power lines are located along the northern boundary of the application site, immediately to the south of Phase 4 of planning permission MPA Ref: 15/000013/CM, running east to west.

611. The applicant states that notwithstanding the outcome of this planning application, they have already reached agreement with Western Power Distribution to move the overhead power lines. It is proposed to divert them underground around the periphery of the site parallel with the River Severn and the A4104.

612. Western Power Distribution have been consulted and they raise no adverse comments to the proposal, stating that the applicant should contact them should any diversions be required. They also state that any works in the vicinity of their apparatus should be carried out in accordance with HSE guidance: GS6, ‘Avoidance of Danger from Overhead Electric Lines’.

613. In view of the above, the Head of Planning and Transport Planning is satisfied that the proposed development would not have an unacceptable impact upon the overhead power lines.

### Crime and safety

614. West Mercia Police comment that they would in many respects support this application, however, as unmanaged quarries often attract unwanted and inappropriate behaviour, they urge the applicant to consider an effective management and maintenance strategy to ensure safety and security of the site.

615. In response to West Mercia Police, the applicant states that the existing Ryall North Quarry site has not experienced any anti-social behaviour and or thefts to date, this includes throughout festival periods.

616. The applicant states in regard to safety that the site would be subject to the health and safety provisions contained in the Quarry Regulations 1999 which means that the boundaries of the site will be secured via safety fencing to prevent entry from members of the public and animals such as dogs. Measures would include appropriate signage around the site, and floatation rings would be placed around the site in case of intrusion into the water areas, and the Quarry

Manager conducts regular boundary inspections. They also note that during the summer months the extraction area is dewatered so there are no large areas of deep open water.

617. The Head of Planning and Transport Planning notes that the design and operations at the site would conform to The Quarries Regulations 1999. The Quarries Regulations 1999 aim to protect those working at a quarry and others who may be affected by quarrying activities e.g., those living, passing, or working nearby, or visitors to site. It is important to note that the operator would be under a legal duty which cannot be passed on to a third party to ensure that appropriate health and safety aspects associated with the site are assessed and implemented with due care and diligence. As the Quarries Regulations 1999 state, the obligation to ensure health and safety aspects relates to all, including potential for trespass.

618. In view of the above, is satisfied that the proposal is acceptable in terms of its impact upon crime and safety.

#### Climate change and sustainability

619. It is acknowledged that both Malvern Hills District Council declared a climate emergency in July 2019 and also that Worcestershire County Council declared a climate emergency in July 2021 and a commitment to tackle its own impacts on climate change through the Worcestershire County Council Net Zero Plan (2020).

620. Policy MLP 26: 'Efficient Use of Resources' of the adopted Worcestershire Minerals Local Plan states that *"mineral development will be permitted where it is demonstrated that the proposed development will make efficient use of natural resources. A level of technical assessment appropriate to the proposed development will be required to demonstrate that, throughout its lifetime, the proposed development will: a) minimise use of water and energy in buildings, plant and transport; b) optimise on-site energy generation from renewable and low-carbon sources; and c) balance the benefits of maximising extraction with any benefits of allowing sterilisation of some of the resource..."*.

621. Policy SWDP 28: 'Management of Flood Risk of the adopted South Worcestershire Development Plan states in relation to Flood Risk Assessments that they *"will...include appropriate allowance for climate change"*.

622. In relation to climate change the NPPF states that *"the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure"* (paragraph 152).

623. Achieving sustainable development is a fundamental objective of the NPPF. Paragraph 8 of the NPPF states:



624. *“Achieving sustainable development means that the planning system has three overarching objectives, 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):*

***a) 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;*

***b) 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*

***c) 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.*

625. *These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; 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”.*

626. *The application states that the proposed development “is a continuation of mineral extraction utilising existing equipment at Ryall North Quarry. Although the proposed application does not include the use or production of renewable energy the company promotes environmental improvements to reduce the sites carbon footprint through improved operations and maintenance.*

627. *No new buildings are proposed as part of the development. The proposed working scheme has been designed to both minimise carbon dioxide emissions and energy consumption. This is achieved through the continued use of barges to carry sand and gravel from Ryall North Quarry to Ryall House Farm Quarry for processing into a range of aggregate products for onward sale”. The applicant has confirmed that each barge would transport on average approximately 165 tonnes (maximum payload of 180 tonnes), at least 8 times that of a HGV. Each barge movement from Ryall House Farm Quarry to Ryall North Quarry and back obviates the need for approximately 16 HGV movements (approximately 8 loaded HGVs). It is noted that the CBOA state that barge transport is environmentally beneficial, more efficient, produces significantly less emissions and noise and is less hazardous than would road transport.*

628. The applicant goes onto state that the design of the proposed working scheme is also intrinsic to achieving a sustainable development, which is based on the following principles:

- *“Minimising travel distances*
- *Minimising gradients, especially for loaded vehicles (loaded vehicles negotiating steep gradients use significantly more fuel)*
- *Minimising the volume of water that needs to be pumped from the quarry void at any one time to facilitate a dry working*
- *Ensuring that as far as possible all soils are directly placed to effect restoration rather than put into temporary storage. Multiple handling that results from temporary storage requires the additional use of mobile plant and therefore results in increased carbon dioxide emissions. Where temporary storage is unavoidable the storage area is located as close as possible to both the source and final placement area of the soils*
- *Ensuring that all haul roads within the quarry are well drained. Vehicles traversing well drained, dry haul roads consume significantly less fuel than those using boggy / muddy roads, so maintain dry internal roads to the extent that this is possible is both cost effective and reduces carbon dioxide emissions”*

629. The applicant states that *“the company has considered the potential of the site to generate renewable energy from within its footprint. It is considered that solar and wind generation are the most appropriate. Solar has been discounted on the basis that there is insufficient undisturbed footprint as a result of the proposed development to erect enough solar panels to generate a meaningful quantum of energy. Wind turbines have been discounted on the basis that they would not be acceptable within the site on the basis of visual intrusion. In both cases the proposed life of the site is too short to justify the capital investment required to effect either form of renewable energy generation. Although the company does not consider Ryall North Quarry can practically contribute to the production of renewable energy at this time any new equipment or plant would implement the following energy efficiencies which has seen a reduction in energy consumption and carbon footprint. Improvements include:*

- *Light sensors*
- *Energy efficiency lighting*
- *Efficient Production (reduced days / longer hours / off peak production)*
- *Regular maintenance of mess rooms / windows / plant to include improved technology and efficiency*
- *Reduced haul roads / one-way systems to reduce vehicle movements*
- *Placement of mobile plant adjacent to operational area”*

630. The Head of Planning and Transport Planning considers that the effects of climate change and the vulnerability of the development proposal to these changes has been adequately considered as part of the preparation of the ES and supporting documents, particularly in terms of the air quality, hydrology / flood risk and ecology. The effects upon air quality are considered further in the 'Residential amenity' section of this report, the effects of hydrology / flood risk is considered further in the 'Water environment including flooding' section of this report and the proposed restoration scheme and biodiversity enhancements are considered in detail in the 'Ecology, biodiversity and geodiversity' and 'Restoration and aftercare of the site' sections of this report, and considered acceptable subject to the imposition of appropriate conditions.

631. Given that the proposal would use barges as opposed to HGVs to transport the sand and gravel to the processing plant at Ryall House Farm Quarry; would make use of and extend the life of an existing processing plant and associated facilities, negating the need for the setting up of a new processing plant and associated facilities; the restoration scheme would make provision for SuDS; flood risk betterment; and habitat creation and biodiversity enhancement. In view of this, the Head of Planning and Transport Planning considers that overall, the proposal would contribute to achieving sustainable development and mitigating and adapting to climate change, in accordance with Policy MLP 26 of the adopted Worcestershire Minerals Local Plan, and Policy SWDP 28 of the adopted South Worcestershire Development Plan.

#### Cumulative impacts

632. Regulation 4 (2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 states that the Environmental Impact Assessment must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on a number of factors this includes the interaction between the factors of population and human health, biodiversity, land, soil, water, air and climate, material assets, cultural heritage and the landscape. Schedule 4, Part 5 states in relation to information for inclusion within ESs, this includes "*the cumulation of effects with other existing and / or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources*".

633. This is reiterated in the PPG at Paragraph Reference ID: 4-024-20170728, which states that "*each application (or request for a screening opinion) should be considered on its own merits. There are occasions, however, when other existing or approved development may be relevant in determining whether significant effects are likely as a consequence of a proposed development. The local planning authorities should always have regard to the possible cumulative effects arising from any existing or approved development*".

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

635. The ES has considered the cumulative impacts under the various topic headings. The ES has set out that the company is not aware of any proposed development in the vicinity of the application site that may materially change the conclusions that have been reached, and that no cumulative impacts have therefore been identified, in respect of the ES chapters relating to 'Population and Human Health'; 'Noise'; 'Traffic and Transport'; 'Land Use'; 'Flora and Fauna', 'Material Assets / Cultural Heritage', 'Landscape & Visual'; and 'Main Alternatives / Risk & Major Accidents'.

636. In terms of 'Soil, Geology and Hydrogeology', the applicant refers to the development of the adjacent Ryall North Quarry, which would lead to a loss of agricultural land as its restoration also involves the creation of open water, but then goes on to state that the loss of an additional 4.5 hectares of agricultural land is not seen as significant. For 'Geology and Hydrogeology', no cumulative impacts have been identified.

637. With regard to 'Water (Hydrology)', the ES states that the Flood Risk Assessment *"has considered the proposed development in conjunction with the continued implementation of the permitted Ryall North Quarry rather than in isolation to identify any potential cumulative impact"* of the quarry as a whole on flood risk.

638. With regard to 'Air Quality', the ES sets out that *"the application site would not be operated simultaneously with the existing quarry, but sequentially once it has been worked out. No cumulative impacts have been identified"*.

639. Therefore, it is considered that based upon the studies and content of the individual chapters within the submitted ES, the underlying conclusion is that there is no single topic or combination of issues which should objectively prevent the development from proceeding.

640. There are a number of major residential developments proposed within the vicinity of the site. This includes Malvern Hills District Council application Refs: 20/02056/OUT and M/22/00883/OUT at Upton Marina, East Waterside, which is pending decision and is an outline planning application for the erection of up to 70 residential units. Malvern Hills District Council application Ref: 16/00402/FUL, Land to the south of Welland Road Tunnell Hill has planning permission for the erection of 43 dwellings.

641. The proposed quarry would be relatively isolated in respect to these developments, being located on the River Severn floodplain, with 'as raised' sand and gravel being transported by barge, it is considered that the proposal is not likely to result in combined significant environmental impacts. Furthermore, in responding to the consultation process, none of the statutory consultees responsible for those environmental areas where it is reasonable to envisage particular cumulative impacts (in particular for example in relation to air quality, noise, traffic and the water environment), have raised objections either in relation to the proposal in its own right or when assessed together with developments outlined above.

642. On balance, the Head of Planning and Transport Planning considers that having regards to these other developments, the cumulative impact of the proposed development would not be such that it would warrant a reason for refusal of the application.

#### Vulnerability to accidents and / or disaster

643. Schedule 4, paragraph 8 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 requires a description of the expected significant effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned.

644. The submitted ES includes a chapter titled: 'Risk and Major Accidents', which describes and assesses the expected significant effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters. In light of the characteristics of the development, which are as summarised under 'The Proposal' section of this report, no vulnerabilities to a major accident or disaster have been identified by the applicant. In view of this, the Head of Planning and Transport Planning is satisfied that the applicant has described the expected significant effects of the development on the environment in terms of its vulnerability to risks of major accidents and / or disasters.

#### Environmental Impact Assessment team and expertise

645. Regulation 18 (5) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 requires the applicant to ensure that the ES is prepared by competent experts and the ES must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts. This is in order to ensure the completeness and quality of the ES.

646. The ES states that a number of individuals were involved in undertaking the Environmental Impact Assessment of the project, which was compiled and coordinated by CEMEX UK Operations Limited, who are a major supplier of building materials. As part of the submission the applicant included the qualifications and membership to professional bodies of the authors of each of the chapters of the ES.

647. In view of this, the Head of Planning and Transport Planning is satisfied that the applicant has engaged competent experts to prepare the ES.

#### Human Rights Act 1998

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

649. The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due

consideration to the rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.

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

#### Obligations under the Equality Act 2010

651. The MPA in carrying out its duties must have regard to the obligations placed upon it under the Equality Act and due regard has, therefore, been had to the requirements of Section 149 (Public Sector Equality Duty) to safeguard against unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. The Head of Planning and Transport Planning considers that the proposed development would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with 'protected characteristics' by virtue that the impacts of the proposal can be mitigated so that they would not have a significant impact on groups with 'protected characteristics'.

### **Summary**

#### The Proposal

652. The applicant is seeking planning permission for proposed extraction of aggregates with restoration to agriculture and lake suitable for water sports on land at Ryall's Court, Ryall Court Lane, Ryall, Upton-upon-Severn.

653. The proposed development is seeking to extract approximately 475,000 tonnes of sand and gravel from approximately 14.6 hectares of agricultural land west of Ryall's Court and east of the River Severn. The applicant states that it would take approximately 2 years to complete mineral extraction, and approximately 1 further year to complete the final restoration, of the site.

654. The quarried sand and gravel would be hauled by off road dumper and then stockpiled in the surge pile, adjacent to the extant wharf. Material stored within the surge pile would then be loaded onto barges throughout the year by a wheeled loading shovel using the existing mobile elevators and wharf. The material would be shipped downstream for processing and sale or use in the on-site concrete batching plant at Ryall House Farm Quarry (MPA Ref: 15/000012/CM, Minute No. 940 refers), which is a continuation of existing practice.

655. The proposed development, in extending the permitted workings in a southerly direction, would increase the extent of the lake area that would be formed. This is to allow a lake to be created that reflects the guidance provided

by FISA, the governing body for rowing at the global level. It would be only the fourth FISA compliant facility in England.

656. It should be noted that a separate planning permission would be required from Malvern Hills District Council for the use of the lake for formal recreation, such as rowing.

#### Alternatives

657. With regard to the consideration of alternatives, the PPG states that the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 do not require an applicant to consider alternatives. However, where alternatives have been considered, Paragraph 2 of Schedule 4 requires the applicant to include in their ES a description of the reasonable alternatives studied and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects. The applicant rejected a number of alternative restoration schemes on the basis that they did not allow the creation of a final landform within which a FISA guidance compliant rowing course could be formed, either because the body of water would be too shallow or insufficiently wide. They also considered that in terms of the likely significant environmental impact, all the options considered by the applicant were assessed as having very similar impact footprints to that ultimately proposed. The Head of Planning and Transport Planning considers that the applicant's approach to the consideration of alternatives is acceptable in this instance.

#### Worcestershire's landbank of sand and gravel reserves

658. 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 0.56 years, equating to a landbank of approximately 3.62 years in total, which is still substantially 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.

#### Location of the development

659. With regard to the location of the development, the Government's PPG states that "*minerals can only be worked (i.e., extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited...*".

660. Policy MLP 1: 'Spatial Strategy' of the adopted Worcestershire Minerals Local sets out a spatial strategy for the location of minerals extraction, seeking to direct such development within the Strategic Corridors. The proposed development would be located within the 'Lower Severn Strategic Corridor', in accordance with Policy MLP 1 of the adopted Worcestershire Minerals Local Plan.

661. The adopted Worcestershire Minerals Local Plan designates 'areas of search', and Policy MLP 3: 'Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors' sets out a policy framework in how to consider applications within and outside 'areas of search' but located in Strategic Corridors. The proposed development is located within an 'area of search' and is considered to meet the relevant criteria of this policy, namely there is a shortfall in extant sites and allocated specific sites and / or preferred areas to meet the scale of provision required over the life of the plan. In view of this, it is considered that the location of the proposal accords with the strategic locational policies of the adopted Worcestershire Minerals Local Plan, in accordance with Policies MLP 1 and MLP 3 of the adopted Worcestershire Minerals Local Plan.

#### Best and Most Versatile (BMV) agricultural land

662. With regard to the soil resource and BMV agricultural land, approximately 8.3 hectares of BMV agricultural land (i.e., Grades 2 and 3a) within the site would be disturbed as a result of the proposed development. Due to the creation of the proposed lake, only approximately 3.8 hectares of land would be restored to BMV agricultural land, resulting in a permanent loss of approximately 4.5 hectares (approximately 54%) of available BMV agricultural land. Natural England have been consulted and have raised no objections on agricultural land / soil handling grounds. In view of this, the Head of Planning and Transport Planning considers that, subject to the imposition of appropriate conditions relating to the management of the soil resource including the development being carried out in accordance with the submitted soil handling methodology, refusal on grounds related to the loss of BMV agricultural land could not be justified.

#### Traffic, highway safety and public rights of way

663. With regard to traffic, highways safety and public rights of way, no aggregate would be sold directly from the site, all aggregate would be removed from site by barge to Ryall House Farm Quarry processing plant site. Ryall Court Lane would be used for vehicular access to the site, as per the existing access arrangements. As part of the restoration scheme, a new public right of way would be created around the perimeter of the site, compensating for the loss of Footpath RP-501, which has been permanently extinguished as part of planning permission MPA Ref: 15/000013/CM.

664. Based on the advice of consultees including County Highways Officer, the County Footpath Officer and the Ramblers Association, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon traffic, highways safety or public rights of way subject to the imposition of appropriate conditions including those relating to a CEMP for highways, vehicular access only to be gained via Ryall Court Lane, restricting the hours that Ryall Court Lane can be used for the transportation of planting and machinery, arrangements for the advanced notification of local residents about the transporting plant and machinery along Ryall Court Lane, all sand and gravel to be transported by barge only, and that there would be no sales of material from the site. The Head of Planning and Transport Planning considers that the proposed development accords with Policies MLP 30 and MLP 39 of the adopted



Worcestershire Minerals Local Plan, and Policy SWDP 4 of the adopted South Worcestershire Development Plan.

#### Landscape character and visual impact

665. With regard to landscape character and visual impact, based on the advice of the County Landscape 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, including the Malvern Hills AONB National Landscape, subject to the imposition of appropriate conditions, including requiring the site to be restored within a set timescale, being carried out in accordance with the soil handling methodology, details of boundary treatments, annual topographical surveys, restricting lighting, the development being carried out in accordance with the combined CEMP / LEMP with associated compliance monitoring, limiting the height of stockpiles, no processing or treatment of sand and gravel on site, updated restoration scheme, aftercare scheme, 10 year aftercare period for all nature conservation areas, and interpretation strategy for landscape. It is considered that the proposal is in accordance with Policy MLP 33 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 23 and SWDP 25 of the adopted South Worcestershire Development Plan.

#### Historic environment

666. There are a number of heritage assets with the context of the application site. the Head of Planning and Transport Planning considers that the proposals would lead to 'less than substantial' harm to the significance of the designated heritage assets of the Upton-upon-Severn Conservation Area. Notwithstanding this harm is less than substantial, the harm must still be given considerable importance and weight, and considerable weight must be given to the desirability of preserving the setting of the designated heritage assets. Consequently, the fact of harm to a designated heritage asset is still to be given more weight than if simply a factor to be taken into account along with all other material considerations.

667. The Head of Planning and Transport Planning considers that subject to the imposition of appropriate, that on balance, in view of the public benefits of the proposal, namely providing a small number of direct employment opportunities (on a peripatetic basis), secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market, that this outweighs the temporary and less than substantial harm to this designated heritage asset.

668. Based on the advice of the County and District Archaeologists, the Head of Planning and Transport Planning considers that on balance, subject to the imposition of appropriate conditions, that the impact upon the non-designated archaeological assets is not of such significance as to constitute a refusal reason in this instance. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policy MLP 32 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 6 and SWDP 24 of the adopted South Worcestershire Development Plan.

Residential amenity (including noise, dust, air quality, human health and contaminated land)

669. With regard to residential amenity, based on the advice of consultees including Worcestershire Regulatory Services and County Public Health, the Head of Planning and Transport Planning considers that, subject to the imposition of appropriate conditions relating to operating hours; limiting the duration of the development; restricting lighting; extent of mineral extraction; noise limits and monitoring; carrying out the development in accordance with the Noise Management Plan and Dust Action Plan; limiting height of stockpiles; white noise reversing alarms on mobile plant and machinery; all vehicles and plant being maintained in accordance with the manufacturers' specification; the relevant conditions on the extant planning permission MPA Ref: 15/000013/CM relating to noise and dust mitigation measures; and a Community Liaison Group, that there would be no unacceptable adverse effect on residential amenity or human health, including noise, dust, air quality, and contaminated land impacts. The Head of Planning and Transport Planning considers that the proposal is in accordance with Policies MLP 28 and MLP 29 of the adopted Worcestershire Minerals Local Plan, and Policy SWDP 31 of the adopted South Worcestershire Development Plan.

Water environment including flooding

670. With regard to the water environment including flooding, a Flood Risk Assessment accompanied the application, as the whole of the application site is situated within Flood Zone 3, as shown on the Environment Agency's Indicative Flood Risk Map. The Flood Risk Assessment has undertaken hydraulic modelling of the River Severn and floodplain at the site. The model demonstrates that the proposed development when operational would lead to a reduction in water levels (flood risk) by approximately 16mm, and the restoration phase would lead to a reduction in water levels approximately 26mm. The model shows that there is a small, though barely significant reduction in water levels at Upton-upon-Severn.

671. The Head of Planning and Transport Planning considers that the applicant has demonstrated that the proposal would remain operational and safe for users in times of flood, by demonstrating the proposal is water-compatible development and providing details of safe flood evacuation plan; the proposal would not result in a net loss of floodplain storage, providing a marginal betterment; and would not impede water flows and not increase flood risk elsewhere.

672. As the applicant is proposing to transport all 'as raised' sand and gravel by barge along the River Severn to the existing wharf and processing plant site at Ryall House Farm, the applicant submitted a 'Risk Assessment & Method Statement' for water transport by barge. It is noted that these water transport arrangements would be a continuation of the existing arrangements approved under extant planning permission MPA Ref: 15/000013/CM.

673. Based on the advice of consultees including the Environment Agency, Severn Trent Water Limited, South Worcestershire Land Drainage Partnership, the LLFA, CBOA and the Canal and River Trust, the Head of Planning and

Transport Planning considers that the proposal would have no unacceptable adverse effects on the water environment including flooding, subject to the imposition of appropriate conditions. The Head of Planning and Transport Planning considers that the proposed development accords with Policies MLP 37 and MLP 38 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 28, SWDP 29, SWDP 30 and SWDP 31 of the adopted South Worcestershire Development Plan.

#### Ecology, biodiversity, and geodiversity

674. Taking into account the views of consultees including Natural England, the Environment Agency, Worcestershire Wildlife Trust, the County Ecologist, County Landscape Officer, and Earth Heritage Trust, the Head of Planning and Transport Planning considers that the “derogation tests” in the Habitats Directive can be met and subject to the imposition of appropriate conditions that the proposed development would not have an unacceptable adverse impact on the ecology, biodiversity and geodiversity at the site or in the surrounding area, including European sites, and would enhance the application site’s value for biodiversity, in accordance with Policies MLP 31 and MLP 36 of the adopted Worcestershire Minerals Local Plan, and Policy SWDP 22 of the adopted South Worcestershire Development Plan.

#### Restoration and aftercare of the site

675. Policy MLP 9 of the adopted Worcestershire Minerals Local Plan sets the priorities for the delivery of multifunctional green infrastructure in the Lower Severn Strategic Corridor. It is considered that the proposal would broadly accord with Policy MLP 9 because the restoration would take place in a progressive manner with soils stripped within the phase cast back to restore previously extracted areas behind the current working face. Furthermore, whilst the site would primarily be restored to a lake (amenity), the revised restoration scheme also includes a variety of different uses, including agriculture (restored to BMV quality), amenity (inclusion of public rights of way around the eastern, northern and north-western perimeter of the proposed lake), and nature conservation. The restoration scheme includes a lake, ponds, reedbeds, swales, ditches, wet and dry conservation grassland, agricultural grassland, and species-rich hedgerows with trees, providing a net gain for biodiversity compared to the existing. Conditions are recommended requiring an interpretation scheme for cultural heritage, landscape, ecology and geodiversity; and a 10-year aftercare programme for all nature conservation areas, with 5-year aftercare programme for the areas proposed to be restored to agricultural grassland.

#### Impact upon festival land

676. The proposed development would further encroach into Fish Meadow, which is a venue and / or campsite for two annual music festivals in Upton-upon-Severn. The applicant states that CEMEX have in consultation with the landowners designed a restoration scheme that does not comprise the ability for the landowner and festival organisers to continue their current commercial arrangement. The applicant highlights that there is substantial land retained between the proposed lake and the River Severn to accommodate future

festivals. CEMEX understand that the landowners have provided reassurances to the festival organisers that their event can continue, and that additional land may also be available. For instance, this year saw the festival held in June on a slightly different footprint than normal, due to the fact that a portion of land used for agriculture was unavailable. The applicant states that whilst they consider the proposal does not prejudice the ability for the festival to continue during and after their operations, they shall seek to be as accommodating as possible with regards to the festival. In view of the above, the Head of Planning and Transport Planning considers that the proposed development would not prejudice the future viability of festivals in this location.

### Economic impact

677. The Head of Planning and Transport Planning acknowledges that the NPPF affords significant weight to the need to support economic growth and notes that paragraph 209 of the NPPF states that *“it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs”*. Paragraph 217 of the NPPF also states that *“when determining planning applications, great weight should be given to the benefits of the mineral extraction, including to the economy”*. It is considered that the proposal would provide a small number of direct employment opportunities (on a peripatetic basis), help to support and retain the existing jobs at Ryall House Farm Quarry, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market. Therefore, it is considered that the proposal would provide substantial sustainable economic growth benefits to the local economy in accordance with the NPPF and this weighs in its favour.

### Conclusion

678. In accordance with paragraph 11 c) of the NPPF, development proposal that accord with an up-to-date Development Plan should be approved without delay. On balance, taking into account the provisions of the Development Plan and in particular Policies MLP 1, MLP 3, MLP 7, MLP 9, MLP 14, MLP 15, MLP 26, MLP 28, MLP 29, MLP 30, MLP 31, MLP 32, MLP 33, MLP 34, MLP 35, MLP 36, MLP 37, MLP 38, MLP 39, MLP 40 and MLP 41 of the adopted Worcestershire Minerals Local Plan, and Policies SWDP 1, SWDP 2, , SWDP 4, SWDP 5, SWDP 6, SWDP 21, SWDP 22, SWDP 23, SWDP 24, SWDP 25, SWDP 28, SWDP 29, SWDP 30, SWDP 31, SWDP 32, SWDP 39, and SWDP 40 of the adopted South Worcestershire Development Plan, it is considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

### **Recommendation**

**679. The Head of Planning and Transport Planning recommends that, having taken the environmental information into account, planning permission be granted for proposed extraction of aggregates with restoration to agriculture and lake suitable for water sports on land at Ryall’s Court, Ryall Court Lane, Ryall, Upton-upon-Severn, Worcestershire, subject to the following conditions:**

### **Commencement and Notification**

- 1) The development must be begun not later than the expiration of 3 years beginning with the date of this permission.
- 2) The operator shall provide written notification to the Mineral Planning Authority at least 7 days but no more than 14 days prior to:
  - i) The commencement of the development hereby approved;
  - ii) The date of commencement of soil stripping operations;
  - iii) The date of commencement of mineral extraction operations; and
  - iv) The date of completion of mineral extraction operations.

### **Time Limits**

- 3) All mineral extraction operations shall cease and the site shall be restored in accordance with the approved restoration scheme as required by Condition 56) of this permission, within 3 years of commencement of the development hereby approved. Should mineral extraction operations cease before this date, the Mineral Planning Authority shall be notified in writing within 1 month of mineral extraction operations ceasing.

### **Approved Plans**

- 4) The development hereby approved shall be carried out in accordance with the details shown on the following approved drawings, except where otherwise stipulated by conditions attached to this permission:
  - 1803-S101-RYN-D-305, titled: 'Phase 5', dated 17 August 2018;
  - 1905\_C028\_RYLN\_001, titled: 'Location Plan', dated May 2019;
  - 1905\_C028\_RYLN\_002, titled: 'Site Plan', dated May 2019;
  - 1905\_C028\_RYLN\_003 A, Revision A, titled: 'Potentially Environmentally Sensitive Properties', dated October 2021;
  - 1905\_C028\_RYLN\_005-Rev A, titled: 'Public Rights of Way', dated November 2021;
  - 1905\_C028\_RYLN\_007, titled: 'Visual Character', dated May 2019;
  - 1905\_C028\_RYLN\_008, titled: 'Agricultural Land Classification', dated May 2019;
  - RNE - RD / T1, titled: 'Restoration Details Proposed Water Depths', dated April 2022;
  - RNE - RD / T2, Revision B, titled: 'Restoration Details Habitat Areas & Existing & Proposed Enhancements', dated April 2022;
  - RNE - RD / T3, Revision A, titled: 'Restoration Details Proposed Fencing, Gates and Public Rights of Way', dated April 2022;
  - RNE - RD / T4A, Revision A, titled: 'Restoration Details Permitted Restoration Scheme Habitat Areas', dated April 2022;

- RNE - RD / T4B, Revision A, titled: 'Restoration Details Proposed Restoration Scheme Habitat Areas', dated April 2022;
- RNE - RD / T4C, Revision B, titled: 'Restoration Details Permitted Scheme Existing & Proposed Trees & Hedgerows', dated April 2022;
- RNE - RD / T4D, Revision B, titled: 'Restoration Details Proposed Scheme Existing & Proposed Trees & Hedgerows', dated April 2022;
- RNE - RD / T4E, Revision A, titled: 'Restoration Details Proposed Scheme Hedgerows & Ditches', dated April 2022;
- RNE - RD / T5A, Revision A, titled: 'Restoration Details Permitted Restoration Scheme Grassland Habitat Areas', dated April 2022;
- RNE - RD / T5B, Revision A, titled: 'Restoration Details Proposed Restoration Scheme Grassland Habitat Areas', dated April 2022;
- RNE - RD / T5C, titled: 'Restoration Details Proposed Restoration Scheme Aftercare', dated April 2022;
- RN - RX / 1B, Revision M, titled: 'Proposed Outline Restoration Scheme Proposed Application Area', dated April 2022;
- RN - RX / 1C, Revision A, titled: 'Proposed Draft Restoration Scheme Cross Section', dated June 2021; and
- Figure No 13.5, Revision 00, titled: 'Recorded designated assets', dated 14 July 2014.

#### **Extraction Boundary**

- 5) No mineral extraction shall take place outside the limit of the extraction boundary shown on approved drawing numbered: 1803-S101 - RYN-D-305, titled: 'Phase 5', dated 17 August 2018. For the avoidance of doubt this permission does not grant Phases 1 to 4, which are outside the application site boundary.

#### **Processing or Treatment**

- 6) No processing or treatment of sand and gravel shall take place on the site.

#### **Waste Acceptance**

- 7) This permission does not allow the importation of waste material onto the site.

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

- 8) Soil handling and placement shall be carried out in accordance with The Institute of Quarrying publication 'Good Practice Guide for Handling Soils in Minerals Workings' (July 2021).
- 9) The development hereby approved shall be carried out in accordance with the approved documents titled: 'Appendix A: Soil Handling – Modified Loose Tipping Procedure for Soil Replacement (The

Peninsula or Lateral Heap Methods)', dated November 2008 of 'Part 2 – Supporting Statement', dated March 2020; and 'Soil Depth and Handling Methodology Note in Response to Natural England – Ryall North', dated August 2021.

- 10) Soil stripping shall not take place until any standing crop or vegetation has been cut and removed.
- 11) The topsoil shall be stripped to the full depth down to 250mm at its maximum depth, all subsoil shall be stripped to a depth of 950mm at its maximum, and wherever possible both topsoil and subsoil shall be directly placed as part of restoration following stripping.
- 12) Topsoil and subsoil stripping shall only be carried out when the entire volume of soil to be stripped is in a dry and friable condition.
- 13) All stripped topsoils and subsoils shall be permanently retained on site for subsequent use in restoration, as detailed in the application.
- 14) For purposes of storage and placement of soils, topsoil shall only be mixed with topsoil and subsoil shall only be mixed with subsoil or other soil-making materials.
- 15) Plant or vehicles shall not cross areas of unstripped topsoil or subsoil except for the express purpose of stripping operations.
- 16) Only low ground pressure machines should work on relaid topsoil or subsoil to replace and level topsoil. Topsoil shall be lifted onto subsoil by equipment that is not standing on either relaid topsoil or subsoil.
- 17) Topsoil shall be re-spread to achieve at least the minimum settled depth of 250mm. The respread topsoil shall be loosened and ripped:
  - i) to provide loosening equivalent to a single pass at a tine spacing of 0.3 metres or closer;
  - ii) to full depth of the topsoil plus 100mm; and
  - iii) any non-soil making material or rock or boulder or larger stone lying on the loosened topsoil surface and greater than 100mm in any dimension shall be removed from the site or buried at a depth not less than 2 metres below the final settled contours.
- 18) Subsoil and any soil making materials shall be levelled to provide an even depth across the re-laid area so that the total thickness of settled subsoil conforms with the approved landform referred to in Condition 56) of this permission.

#### **Access, Highway Safety and Transportation**

Notwithstanding the submitted details, prior to the commencement of mineral extraction, a Construction Environmental Management Plan

**(CEMP) for highways shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the CEMP for highways shall be implemented in accordance with the approved details. The CEMP for highways shall include but not be limited to the following:**

- i) Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;**
  - ii) Details of any site operative parking areas, material storage areas and the location of site operatives facilities including offices and toilets;**
  - iii) The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring; and**
  - iv) A highway condition survey, timescale for re-inspections, and details of any reinstatement.**
- 19) Vehicular access to and from the site shall only be gained via Ryall Court Lane only.**
- 20) The use of Ryall Court Lane for the transportation of plant and machinery shall only be used between the hours of 09:00 to 15:30 hours Mondays to Fridays, inclusive.**
- 21) Notwithstanding the submitted details, within 3 months of the date of this permission, the applicant shall submit details about the arrangements for the use of Ryall Court Lane for the transportation of plant and machinery, including how local residents would be notified about low loader movements to and from the site. Thereafter, the development shall be carried out in accordance with the approved details.**
- 22) All sand and gravel extracted from the site shall be transported by barge only.**
- 23) Prior to the construction of haul routes, a plan showing the position of the haul routes shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**
- 24) No mud, dust or debris shall be deposited on the public highway.**
- 25) The site shall not be open to the general public for commercial purposes.**

**Working Hours**

- 26) Except in emergencies, all operations and uses on the site including the running of any plant or machinery and loading of barges, shall only take place between 07:30 to 18:30 hours Mondays to Fridays, inclusive, and 07:30 to 12:00 hours on Saturdays. There shall be no operations on the site at any time on Sundays, Bank or Public**



**Holidays. The Mineral Planning Authority shall be informed in writing within 48 hours of an emergency occurrence that would cause working outside the stipulated hours.**

**Lighting**

- 27) No external lighting shall be installed on the application site, as detailed at paragraph 8.6 of the approved 'Part 3 – Environmental Statement Volume 1, dated March 2020 and paragraph 6.3.3 of the approved 'Ecological Impact Assessment of Land Proposed as an Extension to Ryall North Quarry, Ryall's Court Farm, Ryall Court Lane, Upton-upon-Severn, Worcestershire, WR8 0PF', dated March 2020.**

**Noise**

- 28) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times and shall be fitted with and use fully operational silencers. Except for maintenance purposes, no machinery shall be operated with its covers either open or removed.**
- 29) All mobile plant, machinery and vehicles (excluding delivery vehicles which are not owned or under the direct control of the operator) used on the site shall incorporate white noise reversing warning devices.**
- 30) The development hereby approved shall be carried out in accordance with approved 'Appendix F: Noise Management Plan – Ryall North Quarry' of 'Part 2 – Supporting Statement', dated March 2020.**
- 31) Notwithstanding the provisions of Condition 30) of this permission, the following measures shall be undertaken to minimise noise emissions within the site arising from all operations including vehicular movements, extraction operations, minerals, soils and overburden stockpiling and soil spreading operations:**
- i) Internal haul routes shall be routed such that separation distances to noise sensitive properties is maximised;**
  - ii) All haul roads are kept clean and maintained in a good state of repair to avoid unwanted rattle and body slap from vehicles;**
  - iii) All mobile plant and heavy goods vehicles within the site shall move in a manner to minimise, as far as is practical and safe, noise from reverse warning systems;**
  - iv) The minimisation of drop heights during loading and unloading of sand and gravel;**
  - v) Plant that is used intermittently, shall be shut down when not in use; and**
  - vi) Any pumps, generators and compressors shall either be electrically powered and fitted with an acoustic cover where necessary; or diesel powered pumps, generators and compressors shall be installed within acoustic enclosures.**

- 32) The noise attributable to mineral operations from the site shall not exceed the levels set out below at the receptor locations identified in the Noise Assessment, dated November 2018 when measured in terms of an LAeq 1-hour level (free field):
- Pool House Retreat: LAeq, 1-hour 51dB
  - Moorings at Pool House Retreat: LAeq, 1-hour 51dB
  - Rag House: LAeq, 1-hour 55dB
  - East Waterside: LAeq, 1-hour 55dB
- 33) During the removal of soils and superficial deposits and the creation of any screen bunds or restoration works, the noise limit at the nearest sensitive properties used as dwellings shall not exceed 70dB LAeq 1 hour (free field) as measured at a point closest to the noise source with the microphone at a height of 1.2 metres above ground level. Such temporary operations shall not exceed a total of eight weeks duration at any noise sensitive properties in any continuous twelve month period. Prior written notice of at least 5 working days, being Mondays to Fridays inclusive, shall be given to the Mineral Planning Authority of the commencement and the duration of such operations.
- 34) Within 21 days from receipt of a written request from the Mineral Planning Authority, the operator shall, at its expense, employ an independent qualified acoustic consultant to assess the noise impact from the development hereby approved upon the nearest sensitive properties. The scope, methodology and timescales for delivery of the noise assessment shall be agreed in writing with the Mineral Planning Authority before assessment begins. Thereafter the noise assessment shall be completed in accordance with the agreed scope and shall be presented to the Mineral Planning Authority within the timescales for delivery.
- 35) Upon receipt of the independent consultant's noise assessment by the Mineral Planning Authority required under Condition 34) of this permission, including all noise measures and any audio recordings, where the Mineral Planning Authority is satisfied of an established breach of noise limits set out in the Conditions 32) and / or 33), and upon notification by the Mineral Planning Authority in writing to the quarry operator, the quarry operator shall within 21 days propose a scheme of mitigation for the written approval of the Mineral Planning Authority. The scheme of mitigation shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. Thereafter, the scheme shall be implemented in accordance with the approved details.

**Dust**

- 36) The development hereby approved shall be carried out in accordance with approved 'Appendix E: Dust Action Plan' of 'Part 2 – Supporting

Statement', dated March 2020.

- 37) Notwithstanding the provisions of Condition 36) of this permission, the following measures shall be undertaken to suppress dust emissions within the site arising from all operations, including vehicular movements, extraction operations, minerals, soils and overburden stockpiling and soil spreading operations:
- i) The provision of a water bowser and/or static/mobile spraying units, which shall be used at all times when there is a risk of dust arising from the moving and storage of soil and overburden, mineral extraction, processing and manoeuvring operations;
  - ii) The sweeping of access and haul roads, where necessary;
  - iii) The minimisation of drop heights during loading and unloading of sand and gravel;
  - iv) All plant and vehicles shall have upward facing exhausts to ensure that emissions are directed away from the ground;
  - v) There shall be a maximum speed limit of 10 mph within the site; and
  - vi) The cessation of operations in conditions when dust cannot be controlled.

#### **Stockpiles**

- 38) The height of any stockpiles of sand and gravel shall not exceed 7.5 metres.

#### **Water Environment**

- 39) Prior to the commencement of mineral extraction, a Flood Management Plan shall be submitted to the Mineral Planning Authority for approval. Thereafter, the development shall be carried out in accordance with the approved details.
- 40) The development hereby approved shall be carried out in accordance with Section 5.6 'Mitigation Measures' of the approved 'Water Environment – Hydrogeological Assessment', dated March 2019.
- 41) Prior to the commencement of mineral extraction, a groundwater monitoring scheme shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include pre, during and post extraction monitoring of the existing onsite monitoring boreholes identified on approved Figure ES 9-5, titled: 'Environmental Statement - Water Environment – Hydrogeological Setting' of the 'Water Environment – Hydrogeological Assessment', dated March 2019, including boreholes WM series (green circle onsite monitoring boreholes) and CP series (pink pentagon onsite monitoring boreholes). The scheme shall include, but may not be limited to:

- i) groundwater monitoring locations including WM series and CP series boreholes;**
- ii) Methods, frequency and nature of all (parameters to be monitored) sampling;**
- iii) A programme detailing frequency and duration of monitoring along with reporting and details of how and when the monitoring data and the scheme itself shall be reviewed to assess if impacts (if any) are occurring;**
- iv) Methods and analysis for investigating the causes of these changes and for remediating them;**
- v) Trigger levels when action is required to protect a water feature;**
- vi) Details of any contingency and mitigation proposals should a trigger level be breached and an impact apparent at a water feature;**
- vii) Should boreholes be lost to operations they should be replaced; and**
- viii) If any new monitoring locations are required i.e. around Phase 5 they shall be installed prior to excavation to collect baseline data.**

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

- 42) If the monitoring results from the water monitoring scheme approved under Condition 41) of this permission, show any adverse risk of deterioration to groundwater and surface water flows and quality, then extraction of mineral on site shall cease until a programme to investigate the cause of deterioration; and implementation of effective alternative options are put in place to avoid and remedy impacts, with criteria for the review of success and failure of any remediation works, shall be submitted to the Mineral Planning Authority for approval in writing, in consultation with the Environment Agency. This scheme shall include for methods and analysis for investigating the causes of these changes and for remediating them; and monitoring the success and failures of any remediation works carried out.**
- 43) Within 6 months of the date of this permission, a scheme that sets out how the water level within the restored lake would be managed shall be submitted to the Mineral Planning Authority for approval in writing. Thereafter, the development shall be carried out in accordance with the approved details.**
- 44) The following measures shall be undertaken in order to mitigate the risk of water pollution arising during the mineral extraction operations and subsequent restoration works:**
  - i) There shall be a maximum speed limit of 10 mph within the site to reduce the likelihood and significance of any collisions;**
  - ii) All plant should be regularly maintained and inspected daily for**

- leaks of fuel, lubricating oil or other contaminating liquids;
- iii) Maintenance of plant and machinery should be undertaken within the site compound or off-site, as appropriate, to minimise the risk of uncontrolled release of polluting liquids; and
  - iv) Discharge water from the dewatering of the excavation shall be pumped into a settlement lagoon to remove any suspended solids before being discharged from the site.
- 45) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and site glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels, overflow pipe outlets shall be detailed to discharge downwards into the bund.
- 46) There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface water whether direct or via soakaways.
- 47) The development hereby approved shall be carried out in accordance with approved 'Appendix G: Risk Assessment & Method Statement – Ryall North to Ryall Quarry' for water transport by barge, dated 27 August 2015, of 'Part 2 – Supporting Statement', dated March 2020.
- 48) The development hereby approved shall be carried out in accordance with approved 'Appendix J: Pollution Prevention Plan' of 'Part 2 – Supporting Statement', dated March 2020.

#### Ecology and Biodiversity

- 49) The development hereby approved shall be carried out in accordance with the approved 'Combined Construction Environmental Management Plan (CEMP) and Landscape & Ecological Management Plan (LEMP) for the extended Ryall North Quarry, Upton-upon-Seven, Worcestershire, WR8 0PF', version 10, dated April 2022.
- 50) Progress against the target habitat conditions shall be monitored during the phased working and aftercare periods as described in the approved 'Combined CEMP and LEMP for the extended Ryall North Quarry, Upton-upon-Seven, Worcestershire, WR8 0PF', version 10, dated April 2022, and any required remediation work shall be undertaken in the next appropriate season. Monitoring reports or compliance statements produced in years 2, 4, 6, 8 and 10 for each

area by a competent ecologist (holding relevant professional body membership) shall be submitted to the Mineral Planning Authority before the end of the calendar year in which they are produced.

- 51) The development hereby approved shall be carried out in accordance with the approved 'Ryall North Quarry HRA', dated September 2022.
- 52) Within 3 months of the date of this permission, the existing submersible pump to over pump the water in the pits / settlement ponds into the drainage system on site shall either be fitted with fish screening or replaced with a fish friendly pump as set out at Section 3.4 of the approved 'Ryall North Quarry HRA', dated September 2022.

#### Interpretation Strategy

- 53) Within 6 months of the commencement of the development hereby approved, an interpretation strategy for cultural heritage, landscape, biodiversity and geodiversity shall be submitted to the Mineral Planning Authority for approval in writing. The Strategy shall include the content topic headings, design, size, quantity and location of any interpretation panels and the timescales for their installation. Thereafter, the development shall be carried out in accordance with the approved details.

#### Archaeology

- 54) Prior to the commencement of the development hereby approved, a programme of archaeological work, including a Written Scheme of Investigation, shall be submitted to the Mineral Planning Authority for approval. The scheme shall include an assessment of significance and research questions; and
  - i) The programme and methodology of site investigation and recording;
  - ii) The programme for post investigation assessment;
  - iii) Provision to be made for analysis of the site investigation and recording;
  - iv) Provision and timetable to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) Provision and timetable to be made for archive deposition of the analysis and records of the site investigation; and
  - vi) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

#### Topographical Survey

- 55) A topographical survey of the site shall be carried out annually and

supplied to the Mineral Planning Authority. Supplementary topographical surveys shall be undertaken upon the written request of the Mineral Planning Authority and supplied to the Mineral Planning Authority within 4 weeks of a written request.

**Restoration**

- 56) Notwithstanding the submitted details, prior to the commencement of mineral extraction, a detailed restoration scheme for the site, updating labelling to reflect the approved 'Combined CEMP and LEMP for the extended Ryall North Quarry, Upton-upon-Seven, Worcestershire, WR8 0PF', version 10, dated April 2022 under Condition 49) of this permission, shall be submitted to the Mineral Planning Authority for approval in writing. Thereafter the development shall be carried out in accordance with the approved details.

**Aftercare**

- 57) Notwithstanding the submitted details, all nature conservation areas, including MG9 grassland and MG4 wet grassland shall undergo aftercare management for a 10-year period, and the areas of agricultural grassland within the application site shall undergo aftercare management for a 5-year period. Prior to any area being entered into aftercare the extent of the area and its date of entry into aftercare shall be agreed in writing with the Mineral Planning Authority.
- 58) Notwithstanding any submitted details, prior to the commencement of mineral extraction, details of the proposed aftercare shall be submitted to the Mineral Planning Authority for approval in writing. Such a scheme shall specify the steps which are to be taken to bring the land up to the required standard for the land uses shown on the Restoration Scheme, as required by Condition 56) of this permission. The proposed aftercare scheme shall include the following:
- i) Control of invasive species;
  - ii) The submission of Habitat Management Plan setting out the actions that are to be undertaken to guide the initial habitat / vegetation establishment works, habitat creation and ongoing restoration including management practices such as cutting and removal of vegetation, grazing, pollarding and protection and replacement of tree and shrub plantings;
  - iii) Management of soil, fertility and weeds;
  - iv) Drainage;
  - v) A timetable for undertaking the aftercare scheme; and
  - vi) The establishment of an aftercare working group comprising of the operator, the Mineral Planning Authority and ecological specialists including a timetable for frequency of meetings. The working group shall assess and review the detailed programmes of aftercare operations and the setting out of

actions for subsequent years having regard to the condition of the land, progress on its rehabilitation and necessary maintenance;

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

#### **Local Liaison**

- 59) Notwithstanding the submitted details, within 3 months of the date of this permission, a scheme that sets out measures for liaison arrangements with the local community shall be submitted to the Mineral Planning Authority for approval in writing. The approved scheme shall be implemented for the duration of the development.

#### **Cessation**

- 60) In the event that the winning and working of minerals ceases prior to the achievement of the completion of the approved restoration scheme referred to in Condition 56) of this permission which, in the opinion of the Mineral Planning Authority constitutes a permanent cessation, a revised scheme, to include details of restoration and aftercare, shall be submitted to the Mineral Planning Authority for approval in writing within 6 months of the cessation of the winning and working of minerals. The revised scheme shall be fully implemented within 12 months its approval in writing by the Mineral Planning Authority or such revised timescale as shall be determined by the Mineral Planning Authority.

### **Contact Points**

#### **County Council Contact Points**

County Council: 01905 763763

Worcestershire Hub: 01905 765765

#### **Specific Contact Points for this report**

Case Officer: Steven Aldridge, Team Manager – Development Management

Tel: 01905 843510

Email: [saldrige@worcestershire.gov.uk](mailto:saldrige@worcestershire.gov.uk)

### **Background Papers**

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

The application, plans and consultation replies in file reference 20/000009/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.