

## **PLANNING AND REGULATORY COMMITTEE**

### **25 OCTOBER 2022**

# **PLANNING APPLICATION MADE UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO NOT COMPLY WITH CONDITIONS 3, 5, 10, 11, 12, 13, 49 AND 53 OF PLANNING PERMISSION: 15/000013/CM “PROPOSED MINERALS EXTRACTION OF ABOUT 1.4 MILLION TONNES OF SAND AND GRAVEL AND ERECTION OF A TEMPORARY WHARF WITH PROGRESSIVE RESTORATION TO MAKE A LANDSCAPED LAKE” TO FACILITATE AN ALTERNATIVE WORKING SCHEME AND PROGRESSIVE RESTORATION SCHEME TO AGRICULTURE AND A LAKE SUITABLE FOR WATER SPORTS AT RYALL NORTH QUARRY, LAND OFF RYALL COURT LANE, HOLLY GREEN, 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 made under Section 73 of the Town and Country Planning Act (1990) (as amended) to not comply with conditions 3, 5, 10, 11, 12, 13, 49 and 53 of planning permission: 15/000013/CM “*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*” to facilitate an alternative working scheme and progressive restoration scheme to agriculture and a lake suitable for water sports at Ryall North Quarry, land off Ryall Court Lane, Holly Green, 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 (stockpile of extracted sand and gravel) 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 ran 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: 20/000015/CM and described in this 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 other application (under MPA Ref: 20/000009/CM, which is covered by a separate report) is to extend mineral extraction southwards, proposing to extract approximately 475,000 tonnes of sand and gravel.

## **The Proposal**

14. CEMEX UK Materials Ltd under Section 73 Town and Country Planning Act 1990 (as amended) are seeking to not comply with conditions 3, 5, 10, 11, 12, 13, 49 and 53 of planning permission: 15/000013/CM to facilitate an alternative working scheme accounting for a proposed quarry extension to the south of the existing site, and a revised restoration scheme that establishes a final lake

design suitable for water sports at Ryall North Quarry, land off Ryall Court Lane, Holly Green, Upton-upon-Severn, Worcestershire.

15. The applicant states that they have submitted a separate planning application (MPA Ref: 20/000009/CM) seeking planning permission for the extraction of 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, and land immediately south and adjacent to the land subject to this planning application. The applicant states that the purpose of that application is twofold, both to allow the winning and working of sand and gravel as an extension to the existing quarry site, but also to allow the overall resultant void to be restored to a lake 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)

16. 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.

17. 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.

18. In order for the extant planning permission to 'mesh' into the proposed southerly extension so that the two planning units are in effect one development, the applicant has applied to vary and / or remove a number of conditions (conditions 3, 5, 10, 11, 12, 13, 49 and 53) attached to MPA Ref: 15/000013/CM to substitute revised working and restoration schemes; and on

the basis that these conditions require specified actions to be taken triggered by reaching a point in the original development; the revised working scheme means these trigger points require revision.

19. The proposed amended restoration scheme would result in a larger, more uniform lake (broadly rectangular in shape), with a sinuous and irregular western lake boundary. 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 20.33 hectares in area, of which approximately 1.82 hectares would consist of lake margin (0 to 1 metre water depth), approximately 1.32 hectares of large margin (1 to 2 metres water depth), and approximately 17.19 hectares of lake open water (over 2 metres water depth). The maximum depth of the open water 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.

20. A reedbed would be created adjacent to the north-western boundary of the lake, comprising approximately 1.36 hectares of reedbed open water (over 2 metres water depth), approximately 0.36 hectares of reedbed margins (1 to 2 metres water depth) and approximately 3.7 hectares of reedbed margin (0 to 1 metre water depth).

21. Rills / swales would be created in the northmost part of the application site, immediately to the north of the application site.

22. Hedgerows would be predominantly planted along the eastern and northern sides of the lake (approximately 3,033 metres long), with hedgerow trees, species to include oak, downy birch, wild plum, cherry, and black poplar.

23. The overall 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

24. A track is proposed around the perimeter of the lake for maintenance and agricultural access. A post and rail fence, measuring approximately 1.2 metres high and associated gates are proposed around the eastern, northern and western boundaries of the lake, preventing public access.

25. Footpath RP-501 previously ran through the site, on a north to south

alignment, connecting to Footpaths EA-519 and UU-594 in the northern part of the application site, but it has been 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: 20/000009/CM) the applicant is seeking to permanently extinguish 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.

26. The extant planning permission MPA Ref: 15/000013/CM divides the quarry into 5 phases of working, as set out in the 'Background' section of this report. These phases were not annual, their extent was based on mineral yield and soil stripping logistics. As part of this new application, the applicant is seeking to amend the phasing, so that Phases 4 and 5 are combined, to create a single phase (new Phase 4). The proposed southern quarry extension under MPA Ref: 20/000009/CM would form a new Phase 5.

27. Extant condition 3 lists the approved documents and plans and states:

*"The development hereby permitted shall be carried out in accordance with the following documents and drawings, except where otherwise stipulated by conditions attached to this permission:*

*Documents:*

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

*Drawings:*

- *14\_C060\_RYLN\_001 – Application Plan;*
- *14\_C060\_RYLN\_003 – Topographic Survey;*
- *14\_C060\_RYLN\_004\_A – Location of Proposed Wharf;*
- *14\_C060\_RYLN\_005 – Cross Sections;*
- *14\_C060\_RYLN\_006\_B – Indicative Wharf Design;*
- *14\_C060\_RYLN\_007 – Public Rights of Way;*
- *14\_C060\_RYLN-009 – Crossing Detail PROW 508(B);*
- *14\_C060\_RYLN\_010 – Crossing Detail PROW 505(B);*

- 14\_C060\_RYLN\_12 – Tree and Hedgerow Overview;
- 14\_C060\_RYLN\_015 – Extent of Proposed Conservation Area;
- 15-S006-RYN-D-001 – Phase 1;
- 15-S006-RYN-D-002 – Phase 2;
- 15-S006-RYN-D-003 – Phase 3;
- 15-S006-RYN-D-004 – Phase 4;
- 15-S006-RYN-D-005 – Phase 5;
- 15-S006-RYN-D-006 – Restoration Landform;
- SO8542 D 3050 110805 – Overburden Isopachytes;
- SO8542 D 3051 110805 – Minerals Isopachytes;
- SO8542 D 3052 110805 – Bedrock Surface Contours;
- RYN/007 A – Restoration Plan;
- 15-S128-RYN-D-002 – Soil bunds; and
- 15-S128-RYN-D-003 – Cross Sections 1-3”.

28. The applicant is seeking to amend condition 3, so as to update and replace a number of documents and drawings including the Supporting Statement and associated appendices, phasing plans, restoration plan, and restoration cross sections.

29. Extant condition 5 relates to the extraction boundary and states:

*“No extraction of sand and gravel shall take place outside the limit of the extraction boundary shown on the Drawing titled: 'Restoration Landform', Numbered: 15-S006-RYN-D-006”.*

30. The applicant is seeking to amend condition 5, so as to replace the drawing referenced above, with a new drawing showing the extraction boundary within the context of the proposed new landform and phasing. The extent of the extraction boundary remains unchanged.

31. Extant condition 10 relates to the phasing scheme and states:

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

32. The applicant is seeking to amend condition 10, so as to replace the drawings which illustrated the proposed amended working, phasing and restoration scheme.

33. Extant condition 11 relates to the restoration scheme and states:

*“Within 12 months of the commencement of the development hereby approved, a detailed restoration scheme for the site, including the wharf and surge pile area shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme”.*

34. The applicant is seeking to amend condition 11, so that the development is carried out in accordance with the submitted amended restoration scheme.

35. Extant condition 12 relates to the restoration of land utilised for soil and overburden (unsaleable materials such as clay or un-saleable silty sand that lies above the mineral) storage and states:

*“Prior to soil stripping operations of Phase 3, as shown on Drawing Numbered: 15-S006-RYN-D-003, a scheme for the restoration of the fields subject to 'short-term soil & overburden storage' as shown on Drawing Numbered: 15-S006-RYN-D-001, shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details”.*

36. The applicant is seeking to amend condition 12, so that the restoration of the fields subject to short-term soil and overburden storage is carried out in accordance with the details, which were approved for condition 12 of extant planning permission MPA Ref: 15/000013/CM, namely the document titled: ‘Ryall North: Restoration to Agriculture and Nature Conservation Aftercare and Management Details Pursuant to Planning Condition 12’, dated 21 August 2019 and approved by the MPA on the 26 November 2019 (under discharge of condition MPA Ref: 19/000029/DIS).

37. Extant condition 13 relates to aftercare period and states:

*“The nature conservation area as defined on Drawing Numbered: 14\_C060\_RYLN\_015 shall undergo aftercare management for a 10-year period; all other land within the application site shall undergo aftercare management for a 5-year period. Prior to any area being entered into aftercare the extent of the area and its date of entry into aftercare shall be agreed in writing with the Mineral Planning Authority”.*

38. The applicant is seeking to amend condition 13, so as to replace the drawing referenced to reflect the proposed amended restoration scheme.

39. Extant condition 49 relates to the Ecological Management Plan and states:

*“The development hereby approved shall be carried out in accordance with the submitted 'Ecological Management Plan for Ryall North, Ryall's Court Farm, Ryall Court Lane, Upton-upon-Severn, Worcestershire, WR8 0PF', dated February 2015”.*

40. The applicant is seeking to amend condition 49, so as to replace it with a new condition requiring the development to be carried out in accordance with the submitted combined Construction Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP).

41. Extant condition 53 relates to the Ecological Monitoring Strategy and states:

*“Within 12 months of the date of this permission an Ecological Monitoring*



*Strategy shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details”.*

42. The applicant is seeking to amend condition 53, so as to replace it with a new condition requiring the development to be carried out in accordance with the submitted combined CEMP and LEMP.

43. The applicant has confirmed that they are currently working Phase 4 and anticipate completing mineral extraction within the boundaries of the extant planning permission MPA Ref: 15/000013/CM by the end of 2022. It should be noted that this application is part retrospective as the applicant has been restoring the site to the proposed new lake landform, at their own risk. With regard to the proposed southern extension (under MPA ref: 20/000009/CM) the applicant anticipates mineral extraction would be likely to commence in early 2023, and take approximately 2 years to complete, with a further year for restoration, including removal of the wharf.

44. The applicant has confirmed that the current rate of sales are approximately 300,000 tonnes of sand and gravel per annum.

45. The proposed operating hours would remain unchanged, 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.

46. 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) at Ryall North Quarry.

47. The access arrangements and proposed barge movements for transporting sand and gravel from the site, as detailed in the ‘Background’ section of this report, would remain unchanged from those approved under planning permission MPA Ref: 15/000013/CM.

48. The applicant states that as per the current arrangements there is no requirement for staff facilities within the site except during a mineral extraction campaign, when portable welfare facilities are brought on site, and are removed at the end of the campaign. These are located within a hard surfaced compound that measures approximately 25 metres long by 25 metres wide, located adjacent to the vehicular site access road to Ryall’s Court.

49. The application is accompanied by an updated 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; material assets / cultural heritage; landscape and visual; main alternatives / risks and major accidents and statement of community involvement. The application was also accompanied by the original ES submitted in support of planning permission MPA Ref: 15/000015/CM.

## The Site

50. The application site measures approximately 50.3 hectares in area, with an extraction area of approximately 32.5 hectares, and lies in the open countryside, immediately to the east of the River Severn in the south-west of Worcestershire. Hanley Castle is situated about 350 metres west of the proposal on the western bank of the River Severn, and Upton-upon-Severn is located about 620 metres south of the proposal. The village of Ryall is located about 600 metres south-east of the site, and Great Malvern is situated approximately 5.5 kilometres north-west of the proposed development.

51. The application site previously comprised of agricultural land, partly arable and pasture, with scattered hedgerows and isolated former hedgerow trees, and was relatively flat with ground levels ranging between 10 metres and 11 metres Above Ordnance Datum (AOD). However, the site has largely been worked (now working the final phase of the permitted quarry). The application site is roughly triangular shaped, orientated north to south with the apex located at the northern most part of the site. The application site measures about 1.2 kilometres in length (north to south) and about 450 metres wide (east to west) at its widest point.

52. The area of extraction is defined on the west by a low hedgerow and runs southwards parallel with the River Severn, set back about 200 metres to 370 metres from the river. The southern boundary is set back about 50 metres and runs parallel with an overhead electricity line. The eastern boundary runs parallel with an existing hedgerow, set back at distances between 50 to 100 metres; and the northern area is undefined on the ground, but has been defined at a distance of about 120 metres south of the River Severn.

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

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

55. A number of public rights of way are located within the vicinity of the application site. Footpath RP-501 previously ran through the site, on a north to south alignment, connecting to Footpaths EA-519 and UU-594 in the northern part of the application site, but it has been extinguished as part of planning permission MPA Ref: 15/000013/CM to facilitate the development of the quarry.

56. 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 south-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 toward, connecting to Bridleway EA-547, which runs through the application site, between the quarry and soil storage area. Crossing points (fences, gates and warning signs) have been set up at the location the haul road crosses this bridleway. This bridleway then connects to Bridleways EA-546 and UU-512 to the north, which connect to 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 340 metres west of the site.

57. 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, except for a small parcel of land located in the north-east of the application site, which is within Flood Zone 1 (low probability).

58. 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.

59. There are a number of statutory and no-statutory wildlife designated sites within 2 kilometres of the proposal. This includes the Upton Ham SSSI, which is located about 715 metres south of the application site on the western bank of the River Severn. Earl's Croome Meadow SSSI is located about 600 metres to the east of the proposal. The Brotheridge Green Meadows SSSI is located about 1.6 kilometres south-west of the application site.

60. The River Severn Local Wildlife Site (LWS) is located immediately to the west of the application site and is set back between 200 metres to 370 from the main body of the application site (extraction area). Pool and Mere Brooks LWS lying about 500 metres south-west of the proposal, at its closest point. The Brotheridge Green Disused Railway LWS is situated approximately 1.1 kilometres south-west of the proposal, beyond which are situated and Brotheridge Green Meadows & Boynes Coppice LWS, located about 1.6 kilometres south-west of the application site. The Stocks Yatt Meadow LWS lies approximately 1.2 kilometres broadly to the south of the site. The Smithmoor Common & Meadows LWS is sited about 1.7 kilometres south-east of the proposal. The Brickpits Plantation & Sandford Pits LWS and Cliffey Wood & Cliffs LWS are situated about 1.9 kilometres north-west of the proposed development.

61. The ancient woodland of Cliff Wood and Barnes' Rough are located approximately 200 metres and 250 metres north and north-east of the

application site, respectively. Beyond which is Severn Bank Wood ancient woodland, located approximately 620 metres north of the proposal.

62. Part of the application site is BMV Agricultural Land, with the majority of the site being Grade 3a (about 51.9% of the site), which is found mainly in the west of the site, with a small area of Grade 2 (about 6.1% of the site) in the south of the site. The remainder of the site is Grade 3b, which is found mainly in the east of the site (about 42% of the site).

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

64. The Grade II Listed Buildings of the Cottage, Quay Lane Farmhouse, and Bonners Cottage are situated on the western bank of the River Severn located approximately 190 metres west of the application site. Further Grade II Listed Buildings, Schedule Monument (Boundary Cross at Entrance to Quay Lane) and Hanley Caste Conservation Area are located beyond within Hanley Castle. The Grade II Listed Building of Pool House Listed Building is situated approximately 400 metres broadly south-west of the proposal on the western bank of the River Severn. The scheduled monument of 'Ringwork known as Hanley Castle' is located about 1 kilometre west of the proposal.

65. The Grade II Listed Building of Severn Bank and the associated Grade II Listed Garden Wall are situated about 720 metres broadly north of the proposal. Hollybeds Farm Listed Building II is situated about 640 metres north-east of the application site. Levant Lodge Listed Building II is situated about 830 metres east of the proposal. Beyond which are the Grade II Listed Buildings of Quarry Lane Cottage, Hazeldene and Earl's Croome House are located approximately 1.1 kilometres east of the proposal. The scheduled monument of 'Moated site east of St Nicholas' Church' is situated about 1.6 kilometres east of the proposal, in Earl's Croome.

66. The Grade II Listed Buildings of Holly Green Cottage and Tudor Cottage, Sunnybank Cottage and Holly Green Farmhouse are located approximately 550 metres broadly south of the application site and about 685 metres south-east of the main body of the application site (extraction area). A number of listed buildings (in the region of 100 listed buildings) and scheduled monuments are also located within Upton-upon-Severn, with the Upton-upon-Severn Conservation Area located about 465 metres south of the application site.

67. The historic park and garden of 'The Park', which adjoins Severn End is located about 200 metres north-west of the application site on the western bank of the River Severn. 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 1.6 kilometres north-east of the application site.

68. Malvern Hills Area of Outstanding Natural Beauty (AONB) National Landscape is situated about 4.7 kilometres west of the application site, and the Cotswolds ANOB National Landscape is situated approximately 7.2 kilometres 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).

69. The proposed development partly encroaches on the land used for camping for the Upton Blues Festival and also the venue / campsite for the Mello Festival and Sunshine Music Festival. The Upton-upon-Severn Marina is located about 450 metres south of the application, immediately south of the A4104.

70. Sewage Treatment Works are located about 250 metres east of the application site, east of the Bridleway RP-506 and about 400 metres west of the application site, on the western bank of the River Severn.

71. The nearest residential property to the application site is that of the Day House and associated Flat at the Day House Cottages, located immediately to the north-east of the application site. Access to the application site is via Ryall's Court (Ryall Court Farm / Surman's Farm), which is situated about 260 metres from the main body of the application site. 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. Rag House and Ryall Chase are located adjacent to Bridleway RP-506, located about 440 metres south-east of the proposal. Further residential properties are situated beyond, set back from the A4104.

72. The Coach House and Severn Bank House are situated about 630 metres and 720 metres north of the application site, respectively. Hollybeds Farm, Holly Lodge and the Marl House are situated about 640 metres north-east of the application site.

73. Severn End, Vine Yard Barn and holiday lets, and Severn End Cottage are located on the western bank of the River Severn situated about 260 metres north-west of the proposal (wharf area).

74. Ballards Farm, the Cottage, Bonners Cottage and River View are located approximately 190 metres south-west of the application site (wharf area) and about 380 metres west of the main body of the application site, on the western bank of the River Severn. Further residential properties are situated beyond in Hanley Castle, situated along Quay Lane.

75. Other nearby residential properties which lie on the western side of the River Severn, include Severn Cottages, which lie approximately 545 metres broadly to the south of the site. The Pool House caravan park lies approximately 450 metres broadly to the south-west of the site. Pool House lies approximately 400 metres broadly to the south-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 325 metres broadly to the south-west of the site. Just beyond the moorings there are a number of chalets.

76. The nearest residential properties to the south of the site include 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 480 metres to the south of the site at their closest point, which further properties beyond.

77. 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 2.3 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 1.8 kilometres broadly south-east of the proposal.

78. The application site is located within the parishes of Upton-upon-Severn (the wharf and associated infrastructure), Ripple Parish (the majority of the mineral extraction) and Earl's Croome Parish (the soil storage areas and part of Phase 2 of the mineral extraction).

## Summary of Issues

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

- Alternatives
- 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
- Impacts upon festival land and tourism

## Planning Policy

### National Planning Policy Framework (NPPF)

80. 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.

81. 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"*.

82. 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.

83. 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.

84. 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.

85. 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.

86. 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**

87. 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.

88. 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.



89. 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)**

90. 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 5: Extant Mineral Sites and Safeguarded Resources
- 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)**

91. 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)**

92. 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).

93. 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.

94. 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.

95. 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.

96. 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.

97. 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**

98. 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.

99. 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.

100. 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.

101. 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.

102. 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**

103. 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.

104. 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.

105. 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.

106. 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)**

107. 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.

108. 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.

109. 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)**

110. 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 Policies 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**

111. 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**

112. 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**

113. 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.

114. 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, and geological 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.

115. 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.

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

117. **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.

118. **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.

119. 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 the proposed southern extraction area 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.

120. 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.

121. 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.

122. 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 web pages 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.

123. 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.

124. 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.

125. 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.

126. 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: 15/000013/CM for the Ryall North Quarry site proposes a more traditional and natural looking lake to the north of Upton-upon-Severn.

127. The Non-Technical Summary for planning permission MPA Ref: 15/000013/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”*.

128. 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.

129. The ES states *“the positive economic impact of a potential water sports facility is 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.

130. 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.

131. 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.

132. 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.

133. 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.

134. 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.

135. 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

136. 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.

137. 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.

138. 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.

139. If Fish Meadow festivals are to continue during mineral extraction, 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.

140. **Upton-upon-Severn Town Council** fully supports the application and recommends approval.

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

142. The majority of Earls Croome Parish Councillors support this application to continue aggregate 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.

143. 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.

144. 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.

145. 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.

146. **Hanley Castle Parish Council (Neighbouring)** has no objections, and request that the hours of operation are adhered to and that the disruption to the residents is taken into consideration when the extraction is underway. The Parish Council look forward to having the lake restored and turned into a country leading rowing facility.

147. **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.

148. **Malvern Hills District Council** have no objections to the proposal, stating that in terms of the principle of development it is understood that whilst the northern and central parts of the application site fall within the Preferred Area titled: 'Ryall North' for sand and gravel extraction (Policy 1) of the adopted County of Hereford and Worcester Minerals Local Plan 1997 [now superseded by the adopted Worcestershire Minerals Local Plan], the southern part of the site falls outside of the allocated Preferred Area. Therefore, the proposal would not be wholly in accordance with Policy 1. It is noted however, that in approving application MPA Ref: 15/000013/CM the MPA concluded that on balance, taking into account the provisions of the Development Plan and in particular Saved Policies 1 and 2 of the adopted County of Hereford and Worcester Minerals Local Plan 1997 [now superseded by the adopted Worcestershire Minerals Local Plan] constituted an appropriate development.

149. Malvern Hills District Council was consulted on the original planning application MPA Ref: 15/000013/CM and responded as follows:

- The District Council recognises the economic benefits that arise from mineral extraction and support the proposals in principle, however, if the County Council decides to grant permission, the County Council should consider imposing conditions on the following:
  - Landscaping mitigation / enhancement (including any restoration works) and long-term economic management of the site
  - Minimising the impact upon residential (including tourist) amenity (noise and dust nuisance / hours of operation)
  - Highway mitigation / construction management plan (in particular Ryall Court Lane and the provision of pedestrian refuges)
  - Biodiversity mitigation / enhancement (including any restoration works)
  - Flooding, surface water drainage and pollution mitigation / enhancement
  - Public rights of way protection / enhancement
  - Minimising impact upon the waterfront and River Severn
  - Assessing and minimising the impact upon ridge and furrow

150. The principle of the extraction of aggregates has been established at this site by planning approval MPA Ref: 15/000013/CM with the key difference relating to the restoration of the site. In particular, it is noted that whilst a lake formed part of the restoration scheme for this earlier planning approval, this current application seeks planning permission for the construction of a larger lake that would extend over land also covered by planning application MPA Ref: 20/000009/CM). A lake that would be suitable for use as a FISA approved rowing venue and a range of other non-powered water-based leisure activities. Further to this, alterations are also proposed to the phasing of the scheme.

151. The parcel of land subject to application MPA Ref: 20/000009/CM would appear to be located outside a preferred area for sand and gravel extraction (Policy 1) of the adopted County of Hereford and Worcester Minerals Local Plan 1997 [now superseded by the adopted Worcestershire Minerals Local Plan]. Whilst it is noted that the site the Lower Severn Corridor as defined in the emerging Publication Version of the Minerals Local Plan [now adopted], this Plan is at Examination in Public and it is clearly for the decision maker when assessing that planning application 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 adopted minerals plans and other material planning considerations when determining that application. It is, therefore, considered that subject to application MPA Ref: 20/000009/CM being found acceptable by the MPA that the view expressed by Malvern Hills District Council in respect of planning approval MPA Ref: 15/000013/CM and set out above remains relevant and should be taken into account by the MPA in the assessment of this current application.

152. Notwithstanding this, it is noted that the proposed restoration scheme includes an approved rowing venue and a range of other non-powered water-based leisure activities. Malvern Hills District Council considers 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. Furthermore, it is noted that a large part of the lake would have a regular outline. The MPA should, therefore, pay particular attention to any associated landscaping scheme to ensure that this body of water is successfully assimilated into the wider landscape. In addition to this, the MPA should have regard to the findings of any updated reports and assessments submitted in support of this planning application. In particular, the updated Flood Risk Assessment and Ecology Assessments.

153. The District Archaeologist and District Conservation Officer have commented on the proposal, and these are set out separately below.

154. **The Environment Agency** have no objections to the application and note with regard to fluvial flood risk, that condition 3 of the extant planning permission MPA Ref: 15/000013/CM stipulates that the development shall be carried out in accordance with a number of documents, including the Flood Risk Assessment. The Environment Agency recommend that this condition should continue to reference the original Flood Risk Assessment and be updated to reference the new Flood Risk Assessment Addendum, should the MPA be minded to grant this application.

155. In response to the further information submitted by the application, the Environment Agency comments that with regard to ecological and improving linkages they note the additional clarity on the habitat restoration, which they support, with proposals to include:

- Expansion of the reed bed northwards on the western bank which should facilitate greater ecological functionality; and
- Enlargement of the open water areas on the western bank to increase the interface between reed and open water to improve ecological functionality.

156. 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

157. 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.

158. **Worcestershire Regulatory Services (noise and dust)** have no objections to the proposal in respect of noise and dust.

159. **Worcestershire Regulatory Services (air quality and contaminated**

**land)** have no objections to the proposal, stating that they have reviewed the submitted information in relation to air quality and contaminated land matters, and conclude that no concerns been identified and, therefore, they have no adverse comments to make in this respect.

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

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

162. 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

163. 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.

164. 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.

165. 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.

166. 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.

167. 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.

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

169. In terms of BMV agricultural land and soils, Natural England confirm that the further information provided by the applicant has satisfactorily addressed their previous concerns regarding soils, land quality and reclamation. 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.

170. Natural England are satisfied that the Soils and Agricultural Land Classification (ALC) information constitutes a satisfactory record of the pre-quarrying physical characteristics of the land within the application site boundary.

171. **The Forestry Commission** comment that ancient woodlands are irreplaceable. They have great value because they have a long history of woodland cover, with many features remaining undisturbed. This applies equally to Ancient Semi Natural Woodland and Plantations on Ancient Woodland Sites.

172. It is Government policy to refuse development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland, unless "*there are wholly exceptional reasons and a suitable compensation strategy exists*" (NPPF paragraph 180, c)).

173. The Forestry Commission also refer the MPA to further technical information set out in Natural England and Forestry Commission's 'Ancient woodland, ancient trees and veteran trees: advice for making planning decisions', together with supporting assessment guide and case decisions.

174. The Forestry Commission recommend that the MPA have regard to any points provided by Natural England about biodiversity and woodlands.

175. **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.

176. The intention of the restorations 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.

177. 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.

178. 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, and in relation to the Proposed Outline Restoration Scheme Plan, which makes the specific intent difficult to review.

179. 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.

180. 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.

181. 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.

182. 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.

183. **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 and LEMP, and revised restoration scheme plan.

184. 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 and 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.

185. **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 CEMP and LEMP.

186. 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 (pg10), and RNE – RD / T5C (pg11) (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 and 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 (pg6) states 2,837.96 metres (445.7 metres reinstated plus 2392.26 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

187. 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.

188. 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.

189. 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.

190. 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?

191. 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.

192. 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 3 within this application site, and Tree 11 to the south of the application site, within the application site of MPA Ref: 20/000009/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.

193. 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 and LEMP outlines the mitigation strategies already agreed / to be agreed with Natural England.

194. 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.

195. **Malvern Hills AONB Unit** state that they do not wish to comment on the application, as it is some distance from the AONB.

196. **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 states that having reviewed the submitted documents, it is understood that this application has been submitted by way of enabling delivery of planning application MPA Ref: 20000009/CM. With that in mind, the County Landscape Officer has no objection to the proposal on landscape grounds, given the substantive impact would result from a variation of the original restoration plan. In landscape terms, the nature of the development already marked a significant shift away from the baseline landscape character, therefore, the main matter is ensuring delivery of high-quality restoration that would deliver net gains for biodiversity alongside the public recreation offer.

197. It is in that context that the County Landscape Officer defer to and support the comments and condition wording submitted by the County Ecologist and considers that delivery of a good ecology-based restoration scheme would also deliver landscape enhancements. The County Landscape Officer provided his comments on planning application MPA Ref: 2000009/CM for context which set out his position and the key aims for landscape. These are copied below:

198. 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 Landscape and Visual Impact Assessment (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 County Landscape Officer states that the trees to be included as standards within restored hedgerows are a welcomed compensation for the loss of existing veteran trees. Hedgerow trees were a distinctive feature of the setting and have been heavily depleted as a result of modern farming practice, therefore, the inclusion of standards is particularly welcomed. The improved hedgerow species mix and additional hedgerow trees, while not fully compensating for the reduced hedgerow 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 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.

204. 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.

205. 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.

206. 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.

207. 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.

208. **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.

209. **Historic Buildings & Places (formerly The Ancient Monuments Society)** have stated that despite its 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.

210. **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 on that basis 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.

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

212. **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

213. 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.

214. 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.

215. 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.

216. 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.

217. 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.

218. 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

219. 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 the development to be carried out in accordance with the approved Written Scheme of Investigation, and an interpretation scheme for archaeology.

221. The County Archaeologist states that the continuation of the methodology currently being implemented for the below-ground archaeology would adequately manage the archaeological resource in the existing quarry.

222. The County Archaeologist also recommends 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 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.

223. **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.

224. 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.

225. **The District Conservation Officer** has no objections to the proposal, stating that they can confirm that no comments are considered necessary on the information in heritage terms.

226. **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.

227. 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.

228. 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.

229. 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).

230. 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.

231. 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.

232. 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.

233. 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.

234. 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.

235. 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.

236. 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.

237. 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).

238. 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.

239. 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*

240. 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*

241. 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.

242. 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.

243. 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.

244.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.

245.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.

246.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.

247.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.



248. 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.

249. 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.

250. 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.

251. 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.

252. 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.

253. 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.

254. 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.

255. 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.

256. 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.

257. **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.

258. 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.

259. 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.

260. CPRE also state that in principle they welcome the transportation of minerals by barge rather than HGVs. However, they are slightly concerned over the bridleway diversion. The path in question is part of the horse towing path,

which exists under a statute of 1809, though the company that owned the right to collect a toll on it is long defunct. They suspect it has been many years since a barge was last towed by a horse on the river and even longer since one was towed by a team of men.

261. **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.

262. **The Ramblers Association** have no objections to the proposal in principle; however, they note that removal of compliance with condition 3 of the extant planning permission MPA Ref: 15/000013/CM may, or may not, affect the public rights of way provisions required under the original application drawings relating to the public rights of way crossing detail that are listed under condition 3. The development should continue to be carried out in accordance with these drawings.

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

264. **The County Footpath Officer** has no objections to the proposal should planning application MPA Ref: 20/000009/CM be granted planning permission, subject to the applicant noting the matter below and adhering to their obligations to the public rights of way.

265. 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).

266. 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.

267. 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.

268. In the event planning application MPA Ref: 20/000009/CM is not granted then the County Footpath Officer requests that the original conditions be retained as per the extant planning permission MPA Ref: 15/000013/CM.

269. **The County Highways Officer** has no objections to the proposal, subject to the imposition of the appropriate extant conditions. The County Highways Officer states that the application seeks to combine Phases 4 and 5 into a single working phase and the creation a more rectangular lake, does not materially affect its operation.

270. 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.

271. 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.

272. 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.

273. 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.

274. 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.

275. **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.

276. 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.

277. 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

278. 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.

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

280. **The Canal and River Trust** have no comments to make on the proposal.

281. **South Worcestershire Land Drainage Partnership** have no objections to the proposal, commenting that condition 3 of the extant planning permission MPA Ref: 15/000013/CM required the development to be carried out in accordance with the original submitted Flood Risk Assessment, dated 2016. South Worcestershire Land Drainage Partnership state that it is also required in support of this application and note that an updated Flood Risk Assessment Addendum has been submitted, which is acceptable in principle.

282. The applicant should refer to the Environment Agency for any flood defence or river permits that may be required for works in proximity with the River Severn and its floodplain.

283. **The Lead Local Flood Authority (LLFA)** have no objections to the proposal.

284. **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.

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

286. **West Mercia Police** have no concerns or objections to this application.

287. **Western Power Distribution** comment that their apparatus is located immediately to the south of the site (66kV overhead power line), and to the west, north and north-east of the site (11kV overhead power line). 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.

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

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

290. **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'.

291. **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**

292. The application has been advertised on site, in the press, by neighbour notification, and via social media. To date, 26 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, 20 of which are letters of support, 5 of which are objections, and 1 of which is comments. These letters of representation were made available to Members of the Planning and Regulatory Committee upon request. Their main comments are summarised below.

293. 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 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

- 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 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 to the 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.
- Rowing as a sport is short of facilities adequate to meet demand.
- The proposal could be transformative for getting more young people across the country involved in water sports at a new high-quality venue.
- Rowing is inclusive for all age groups.
- Highlights the benefits of sport and exercise.

#### 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.
- The underused fields around the rugby club could become the focus of Upton Blues Festival and the reduced area of Fish Meadow would no doubt remain attractive for lesser events.

#### Economic impact

- The application represents an opportunity to develop further the potential of Upton-upon-Severn and its river setting.
- The leisure activities in the small town of Upton-upon-Severn are limited to restaurants and pubs with occasional music festivals. The weather plays a significant part in the success or otherwise of the last of these. The proposal would bring all year-round participation in activities that are less affected by the weather.

#### 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.
- Immense value to local and wider community, in particular to schools, colleges and the third age 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.
- Apparent side-lining of the key biodiversity element of the approved restoration scheme, previously developed in consultation with the Green Infrastructure Steering Group.
- The restoration scheme shows that the biodiversity element would be diminished, mainly by being reduced to a relatively small area of reedbed on the western side of the lake.
- The proposed revised restoration scheme appears to simply pay minimal lip-service to the concept of biodiversity rather than any genuine aim to provide good sustainable habitat.
- The disturbance from rowing activities on the lake and other public access areas would be highly likely to undermine or even destroy the merit or usefulness of any wildlife habitat. It certainly would not comply with Biodiversity Action Plan objectives such as green corridors and links etc.
- Urges the MPA to consider this application in fine critical detail and, in effect, to prioritise giving nature a chance.
- 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.

#### Landscape character and visual impact

- The necessary linear and unnatural nature of the rowing facility would also jar in the landscape, however much 'native hedgerow' might be installed.

#### 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.

#### Other matters

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

#### **Comments**

- Whilst they agree with the benefits of the water sports facility, they are concerned about the access via Ryall Court Lane, as it is already well-used by farm and commercial vehicles, some very large, and without the width for 2 vehicles to pass for most of its does not seem appropriate to accommodate even more traffic. Therefore, they consider an alternative access is required.

- Over the years they have become aware of the increased volume of traffic in Ryall Court Lane. This has incurred corresponding increase in danger at the junction of Ryall Court Lane and the A4104 and is a matter of considerable concern. This is due to the increased difficulty and danger of exiting Ryall Court Lane onto limited-visibility traffic on the A4104. If rowing traffic is to enter via Ryall Court Lane, there surely needs to be a safer exit from the site.

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

294. 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**

295. 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”*.

296. 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 Environmental Statement 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).

297. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of alternatives, noting that *“in this instance the applicant has not explored the merits of alternative sand and gravel extraction sites, stating that this is because this exercise was carried out by the then Hereford and Worcester County Council as part of the preparation of the adopted Minerals Local Plan. The northern and central areas of the application site are identified in the Minerals Local Plan as 'preferred area' for future extraction, with the remainder of the site identified as an area of known deposits, which are capable of being worked. The preferred area has emerged from a comprehensive review of alternative sites as a site which is acceptable in principle for extraction and 'least damaging on environmental grounds' (ref Minerals Local Plan Policy 1)”*.

298. The original report to committee stated that the applicant's consideration of alternatives did not focus on alternative sites, but rather on alternative means by which the minerals site might be worked (phasing and direction of working) and restored, and alternative wharf locations. It did reference the consideration of a

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

299. The applicant’s approach to the assessment of alternatives, as set out in the updated 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.

300. 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.

301. 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.

### **Location of the development**

302. 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.

303. 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”*.

304. 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).

305. It is considered that the location of the development has already been established in the granting of planning permission MPA Ref: 15/000013/CM, and it is noted that Policy MLP 5: 'Extant Mineral Sites and Safeguarded Resources' of the adopted Worcestershire Minerals Local Plan provides policy support to existing / established mineral sites and alterations to them, stating:

306. *"Planning permission will be granted for: a) alterations to the mineral development permitted within the boundary of a site with extant planning permission, either within or outside a strategic corridor, subject to other parts of the Development Plan being satisfactorily addressed..."*

307. The reasoned justification to this policy states *"over the life of the plan, proposals to alter mineral development already permitted at sites with extant planning permission (including those which are permitted during the life of the plan) may arise, such as through periodic reviews of mineral planning permissions (ROMPs) or applications for the variation of planning conditions. Applications to vary planning conditions are not unusual for mineral sites, as development usually takes place over a number of years. For example, they may be required to enable more efficient working or processing of minerals, to amend restoration schemes to reflect particular site conditions which could not be anticipated at the time of the original application, or to reflect the latest best practice.*

308. *The principle of mineral development within the boundary of extant sites has already been established either in advance of the Minerals Local Plan being adopted, or after consideration against the tests of policies MLP 2-MLP 4. Policy support is therefore provided in Policy MLP 5 to enable alterations to the development permitted within extant sites both within and outside the strategic corridors.*

309. *Whilst the principle of mineral development is already established by the extant planning permission, the suitability of any proposed alterations to the permitted development must be considered on their individual merits against the policies of the Development Plan (including other policies within the Minerals Local Plan)".*

310. In view of the above, the Head of Planning and Transport Planning considers that the location of the proposed development is acceptable, in accordance with Policy MLP 5 of the adopted Worcestershire Minerals Local Plan, and an assessment of the proposal against the other policies of the Development Plan is set out in the proceeding sections of this report.

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

311. 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".*

312. 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"*.

313. 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".*

314. 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 original ES and a soils handling methodology was also submitted as part of the updated ES. These identify that the agricultural land within the application site has been assessed with most of the site being Grade 3a (about 51.9% of the site), which is found mainly in the west of the site, with a small area of Grade 2 (about 6.1% of the site) in the south of the site. The remainder of the site is Grade 3b, which is found mainly in the east of the site.

315. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of the BMV agricultural land, noting that *"the extraction and removal of mineral and the silt from the site would result in a void, with overburden and soils stripped from above the mineral used to partly backfill the void. Due to the balance of materials and the height of the ground water at the site, it is inevitable that a large water body would be created. Furthermore, due to the location of the site within the Severn floodplain, where the opportunities*

*for agricultural restoration are limited, due to the need to import material which could impact upon flooding downstream, the restoration proposals seek to enhance biodiversity through the creation of a wetland. It is considered that the soil resources would be used beneficially for the restoration land uses proposed. Notwithstanding this, the majority of the BMV agricultural land within the site would be lost if planning permission were to be granted.*

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

317. *The updated ES states that “the proposed development does not involve revisions to the soils environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. That assessment identified no likely significant effects regards soils would result from the quarry’s operation, and that as the proposed development does not seek to change this, further consideration of soils issues has been scoped out of this ES. The above conclusions have been drawn on the basis of the lack of material change resulting from the development with regard to soils, but also on the basis of the continued implementation of existing mitigation measures”.*

318. *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 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).*

319. *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 further information submitted by the applicant and confirm that this addresses their previous concerns regarding soils, land quality and reclamation.*

320. *The Head of Planning and Transport Planning considers that this application would not alter the original conclusions above, and subject to the*



imposition of the relevant extant conditions relating to the management of the soil resource; and the development being carried out in accordance with the submitted soil handling methodology, that refusal on grounds related to the loss of BMV agricultural land could not be justified in this instance.

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

321.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”*.

322.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”*.

323.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.

324.The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of traffic and highway safety, concluding that *“the County Highways Officer has been consulted and has raised no objections to the proposal. Based on this advice, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would not have an unacceptable impact upon traffic and highway safety, subject to the imposition of appropriate conditions, in accordance with Policy SWDP 4 of the South Worcestershire*

*Development Plan”.*

325. The updated ES states that “no changes to traffic and transport matters are proposed as a result of the development. Mineral would continue to be exported from the site via the existing wharf and barged to Ryall House Farm Quarry for processing. Ryall Court Lane would be used as a site access for staff, mobile plant deliveries and collections, archaeological staff and fuel deliveries only. Ryall Court Lane has been used as the point of access to the extant Ryall North Quarry since the commencement of the development in 2016. To the Company’s knowledge this access arrangement has not attracted any complaints since its inception. The proposed development does not involve revisions to the traffic and transport environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. The findings of the ES that accompanied that application remain valid. That assessment identified no likely significant effects with regard to traffic and transport would result from the quarry’s operation, and that as the proposed development does not seek to change this, further consideration of traffic and transport issues have been scoped out of this ES.

326. The above conclusions have been made on the basis of the lack of material change resulting from the development, but also on the basis of the continued implementation of existing mitigation measures. These measures include:

- *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, and;*
- *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”.*

327. The Head of Planning and Transport Planning notes that 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. During the campaign, the site would be visited by up to 6 members of staff. 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.

328. The County Highways Officer has been consulted and has raised no objections to the proposal, subject to the imposition of the appropriate extant conditions. 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, or materially affect its operation. 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.

329. 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

330. 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 necessary in this instance and were not limited by the extant planning permission, and the proposal would not alter the number or type of vehicles using Ryall Court Lane. 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 going on 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.

331. The Head of Planning and Transport Planning notes that the applicant would continue to notify all local residents along Ryall Court Lane of the low loader movements; and that mineral extraction is anticipated to be completed by the end of 2022, with all plant and equipment now on site.

332. 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.

333. 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.

334. The Head of Planning and Transport Planning notes that the extant planning permission MPA Ref: 15/000013/CM imposed conditions requiring:

- Vehicular access to and from the site shall only be gained via Ryall Court Lane
- 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
- All sand and gravel extracted from the site shall be transported by barge only
- No mud, dust or debris shall be deposited on the public highway

335. The Head of Planning and Transport Planning considers that this application would not alter the original conclusions above, as it would be a continuation of current operations in terms of impacts upon traffic and highway safety, subject to the imposition of the relevant extant conditions as set out above.

336. 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"*.

337. 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.

338. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of public rights of way and concluded that *"the Head of Strategic Infrastructure and Economy considers that users of the Public Rights of Way, in particular along Bridleways EA-547 and UU-508 and Footpath RP-*

*501 would experience a detriment to their amenity and enjoyment of the public right of way in the countryside in the short and medium-term, but acknowledges that the proposed arrangements would cater for the legal line of the public rights of way, with Footpath RP-501 being temporarily closed. In the long-term the restoration of the site would enhance the public rights of way network, as a lakeside public right of way would be created to compensate for the loss of Footpath RP-501, and an additional footpath would be created linking public rights of way RP-519 and UU-508 via the north-western lake shore. Based on the advice of the County Footpath Officer it is considered that the proposed mitigation measures in respect of the public rights of way crossings are acceptable, subject to the imposition of an appropriate condition”.*

339. 'The Site' section of this report describes the public rights of way within the site and its vicinity. 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 under MPA Ref: 20/000009/CM, the applicant is seeking to permanently extinguish 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).

340. The Ramblers Association have raised no objections to the proposal in principle; but they highlight that the approved public rights of way crossings under extant planning permission MPA Ref: 15/000013/CM should continue to be implemented.

341. In response to the Ramblers Association the applicant confirmed that the public rights of way crossings, as previously approved under condition 36 of the extant planning permission MPA Ref: 15/000013/CM would remain in place for the duration of the operations. A condition is recommended to this effect.

342. 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 has raised no objections to the proposal, and that this was considered as part of the determination of the extant planning permission MPA Ref:

15/000013/CM, which concluded that the provision of a bridleway was not necessary to make the development acceptable in planning terms.

343. CPRE state that in principle they welcome the transportation of minerals by barge rather than HGVs, however, they are slightly concerned over the bridleway diversion (Bridleway UU-508). The Head of Planning and Transport Planning notes that the original application proposed a minor diversion of Bridleway UU-508 in the vicinity of the barge loading area to allow for safer operation of plant and infrastructure, which would be in place for the duration of the works. The Head of Planning and Transport Planning notes that this temporary diversion has been in place since 2016 and is considered to be acceptable in planning terms. A condition is recommended to be imposed requiring the development to be carried out in accordance with the approved bridleway crossing details.

344. 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.

345. 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.

346. 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.

347. 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 the relevant extant conditions, in accordance 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**

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

349. 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.

350. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of landscape character and appearance of the local area, concluding that *"overall, it is considered that there would be changes to the perceptual and aesthetic aspects of the site, but these impacts would be localised in effect and the mitigation measures, in particular the construction of topsoil screening bunds; the nature of the working and phased restoration would limit the extent of the disturbance visible at any one time. The Head of Strategic Infrastructure and Economy considers that, based on the advice of the County Landscape Officer, the proposed development would not have an unacceptable impact upon the character and appearance of the local area, including the Registered Park and Garden of 'The Park', subject to the imposition of appropriate conditions, in accordance with Policies SWDP 6 and SWDP 24 of the adopted South Worcestershire Development Plan"*.

351. The updated ES states that for the purposes of the assessment the baseline adopted for the assessment is the currently approved restoration scheme. This is because the development proposed is, in part, a revision to that scheme. The updated ES considers that the merging of Phases 4 and 5 into one phase, to form a new Phase 4, has been assessed as not resulting in any likely significant effects beyond those identified by the original ES. The Head of Planning and Transport Planning concurs with this approach, given the fallback position of the approved restoration scheme for the site.

352. The updated ES states the principle of creating a water body of the scale proposed has already been assessed and approved through the granting of planning permission MPA Ref: 15/000013/CM. The scale of the landscape change that would result from the revised restoration scheme would be very similar to the approved scheme, given that both waterbodies are of a comparable size and position, albeit the restoration schemes differ in respect of the shape, with the proposed lake being more open and straight sided.

353. In view of the above, the application was accompanied by a LVIA, which assesses the visual impact of the proposed alternative restoration scheme together with the proposed southern extension (proposed under planning application MPA Ref: 20/000009/CM). The LVIA concludes in respect of

landscape impacts that “*moderate level of landscape impact has been assessed for the application site and for the immediate Landscape Description Unit. The impact on the immediately adjacent Landscape Description Units are 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...The proposal to extract sand and gravel and to restore the land to a lake would introduce a new character to the area, but this would not be inappropriate to the position of the site on the river flood plain. The other aspects of the development including the wharf, haul route and surge pile are all considered to be temporary uses of the land and the impact on those areas is considered to be reversible*”.

354. The LVIA concludes that in respect of visual impact that “*visual impact is generally well restricted by vegetation and landform, and almost all views are within a short distance of the site. Existing vegetation is concentrated towards the south end of the proposed extraction area, whereas the northern section is more open. Most views would occur from public rights of way, with impacts increasing towards the north end of the site. Day House Cottages and the Severn Way are particularly sensitive to visual impact. However, the Severn Way is more distant from the extraction area and as such perceived change and hence impact would be lessened. The impacts on Day House Cottages would be considered significant during soil stripping and construction of the spoil screen bund, and when extraction is taking place in Phase 2 and extraction reaches the northern limit of Phase 2 (albeit with extraction operations screened by the bund) [it should be noted that Phase 2 has been completed and the applicant is now working Phase 4]. After that period impacts would be much less and declining as the restoration matured. In the long-term the presence of the lake is considered to enhance the views from that area.*

355. *Views on the Severn Way would be of significance as it passes through the wharf area due to the visible operations and mineral storage. These views would quickly diminish with distance but would last for the life of the extraction period. These views may not necessarily be regarded as negative as they provide a focus of interest on the water, and perception is likely to be very subjective in nature [it should be noted that this impact remain unchanged to that originally assessed and granted planning permission under MPA Ref: 15/000013/CM) and would not alter as a result of this proposal].*

356. *Overall, the identification of these moderate / major significant visual impacts have to be balanced by the restricted visual impact for the development in general”.*

357. The updated ES states that after the cessation of the mineral extraction the variance in restoration outcomes resultant from implementing the revised restoration scheme would not be perceived due to intervening vegetation, and thus no long-term visual effects are predicted, therefore, no likely significant effect is predicted.

358. The County Landscape Officer has been consulted and has raises 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



states that having reviewed the submitted documents, it is understood that this application has been submitted by way of enabling delivery of planning application MPA Ref: 20000009/CM. With that in mind, the County Landscape Officer has no objection to the proposal on landscape grounds, given the substantive impact would result from a variation of the original restoration plan. In landscape terms, the nature of the development already marked a significant shift away from the baseline landscape character, therefore, the main matter is ensuring delivery of high-quality restoration that would deliver net gains for biodiversity alongside the public recreation offer.

359. 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.

360. Malvern Hills AONB Unit state that they do not wish to comment on the application, as it is some distance from the AONB.

361. In view of the above, the Head of Planning and Transport Planning considers that whilst the proposal would result in a more uniform and rectangular lake, particularly along the eastern lake boundary, it does strike a balance between creating a landform that would be capable of meeting the FISA standards, whilst being more sinuous and irregular on the western boundary, which is more natural and in keeping with the landscape character of the area. Given the fallback position of a lake in this location, and due to the flat expansive landscape, with intervening vegetation, the Head of Planning and Transport Planning concurs with the findings of the updated ES and LVIA that overall, there would be restricted visual impacts as a result of the proposed development.

362. 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 extant conditions, including requiring the site to be restored within a set timescale, limits of extraction; phasing; limiting the height of stockpiles, no processing or treatment of sand and gravel on site; annual topographical surveys; aftercare scheme; being carried out in accordance the approved lighting scheme, updated soil handling methodology, and combined CEMP and LEMP with associated compliance monitoring; updated restoration 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**

363. With regard to heritage assets, as set out under 'The Site' section of this report, these include Severn End a Grade II\* Listed Building and associated Grade II Listed buildings and structures, which are located approximately 250 metres north-west of the proposal. The Grade II Listed Buildings of the Cottage,

Quay Lane Farmhouse, and Bonners Cottage are situated on the western bank of the River Severn located approximately 190 metres west of the application site.

364. The historic park and garden of 'The Park' is located about 200 metres north-west of the application site on the western bank of the River Severn. Croome Court, which is a Grade I registered historic park and garden is located approximately 1.6 kilometres north-east of the application site.

365. Upton-upon-Severn Conservation Area is located about 465 metres south of the application site.

366. 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”*.

367. 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...”*.

368. 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.

369. 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”*.

370. 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”.*

371. 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...*”.

372. 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...*”.

373. 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...*”.

374. The PPG at Paragraph 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*”.

375. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of the historic environment. In relation to designated heritage assets, it stated that “*the Assessment concludes that the proposal would not lead to harm to the heritage significance of Severn End, and the elements of the setting contributing to the significance of the Grade II\* Listed Building would be unharmed. It would also not harm the significance of the Grade II Listed Buildings with which it is associated. The proposal would not*

*lead to either substantial, or less than substantial, harm to designated heritage assets, as specified in the NPPF.*

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

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

378. *The updated ES states that the proposed development does not involve revisions to the cultural heritage environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. The findings of the ES that accompanied that application remain valid. The ES states that due to the flat topography of the application site and its wider environs, the position of the river and roads relative to the application site, and specific items of historic interest, and the nature of the proposed changes to the restoration scheme, the ES concludes that the revised proposal would have no additional impact on their setting, over and above that of the current permitted scheme.*

379. *The updated ES states that the above conclusion was reached on the basis that although the lake may be visible from a number of historic assets, it is unlikely that the subtleties of the changes in restoration would be noticeable from those viewpoints.*

380. *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.*

381. *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 and LEMP. In response to this*

further information being submitted, the CBA state that they have no further comments on this application.

382. The District Conservation Officer has raised no objections to the proposal, stating that they can confirm that no comments are considered necessary on the information in heritage terms.

383. The Gardens Trust state that they have considered the information provided in support of the application and on this basis, 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.

384. In view of the above, the Head of Planning and Transport Planning considers the proposals would not alter the original conclusions of the report to committee, in that the proposal would not lead to any material harm to any designated heritage assets.

385. 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”*.

386. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of heritage assets of archaeological interest, stating that *“the applicant submitted an assessment, which confirmed that the majority of the ridge and furrow earthworks within the area proposed for overburden and subsoil storage are most likely of post-medieval date, and are, therefore, considered to be of negligible heritage value. The applicant has amended the proposal to avoid physical impact on the ridge and furrow earthworks of possible medieval origin, located in the north-west corner of the field, and proposes to segregate this area off with fencing.*

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

388. *The County Archaeologist considers that in principle they have no objections to use of the area of post-medieval ridge and furrow for subsoil and overburden storage if alternative areas are not reasonably and practicably available. With regard to the much smaller area of probable medieval ridge and furrow, they note that the applicant is proposing to fence this off from the working area for the duration of the works. The County Archaeologist considers that this is a suitable means of ensuring the preservation in-situ of these features. The affected area of ridge and furrow as a whole can also be recorded prior to development thereby ensuring the preservation by record of the area to be lost”*.

389. The original report to committee concluded that *“based on the advice of the County Archaeologist, the Head of Strategic Infrastructure and Economy considers that on balance, subject to the imposition of appropriate conditions, that the impact upon the ridge and furrow earthworks is not of such significance as to constitute a refusal reason in this instance. Furthermore, the affected area of ridge and furrow could be recorded prior to development and a condition is recommended to require this”*.

390. The updated ES states that *“a Written Scheme of Investigation designed to mitigate the loss of archaeological remains within the application site itself has been previously approved by the MPA. It is proposed to continue to implement this scheme for the remainder of the development”*.

391. 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.

392. The County Archaeologist has no objections to the proposal, subject to the imposition of conditions requiring the development to be carried out in accordance with the approved Written Scheme of Investigation, and an interpretation scheme for archaeology.

393. 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)**

394. 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”*.

395. Paragraph 186 of the NPPF goes onto states 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....”*

396. 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”*.

397. 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...”*.

398. 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”*.

399. 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...”*.

400. 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)”.*

401. As set out under ‘The Site’ section of this report, the closest residential properties are Day House and associated Flat at the Day House Cottages, located immediately to the north-east of the application site. Ryall's Court (Ryall Court Farm / Surman’s Farm) located about 260 metres from the main body of the application site, with a number of residential properties located beyond along Ryall Court Lane.

402. Ballards Farm, the Cottage, Bonners Cottage and River View are located approximately 190 metres south-west of the application site (wharf area) and about 380 metres west of the main body of the application site, on the western bank of the River Severn. Further residential properties are situated beyond in Hanley Castle, situated along Quay Lane.

403. The updated 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 Management Plan, Dust Management Plan and HIA Screening.

404. 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).

405. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of noise impacts, stating that *“the operating hours and transportation of aggregates would be between the hours of 07:30 to 18:30 hours Mondays to Fridays, inclusive and between 07:30 and 12:00 on Saturdays. The proposed development includes a number of mitigation measures, these include: the construction of a topsoil screening bund measuring about 3 metres high between the extraction area and Day House Cottages; the construction of the wharf, internal haul roads and soil stripping are confined where feasible to periods of no more than eight weeks in any year; haul roads to be kept clean and in good state of repair; plant subject to regular maintenance; minimising drop heights; and pumps to be fitted with acoustic screens”.*



406. The original report to committee stated that *“the ES Noise Section concludes that with the implementation of the recommended mitigation measures, and inclusion of the acoustic benefits provided by the quarry face when working at the base of the sand and gravel that:*

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

407. The updated ES states that *“the proposed development does not involve revisions to the noise environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. The findings of the ES that accompanied that application remain valid. That assessment identified no likely significant effects regards noise would result from the quarry’s operation, and that as the proposed development does not seek to change this, further consideration of noise issues has been scoped out of this ES”.*

408. The updated ES goes onto state that *“the above conclusions have been drawn on the basis of the lack of material change resulting from the development with regard to noise, but also on the basis of the continued implementation of existing mitigation measures. These have been formalised by the Noise Management Plan”.*

409. The submitted Noise Management Plan outlines a number of mitigation measures, these 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

410. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of air quality impacts, including dust emissions, stating *“with regards to air quality, which for this application primarily relates to dust emissions associated with mineral extraction, storage and handling and traffic exhaust emissions. There would be no processing of minerals at the site. The stripping of soil and overburden and the extraction of minerals would be competed on a campaign basis, operating for a period of up to 7 weeks at a*

*time. A number of mitigation measures are proposed, which include minimising drop heights; dampening down of haul roads / stockpiles; vehicle speed restrictions; and regular maintenance of haul roads. Subject to the implementation of the recommended mitigation measures, the ES concludes that the impacts of dust emissions on sensitive receptors are considered to be insignificant”.*

411. The updated ES states that *“the proposed development does not involve revisions to the air quality environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. The findings of the ES that accompanied that application remain valid. That assessment identified no likely significant effects regards air quality would result from the quarry’s operation, and that as the proposed development does not seek to change this, further consideration of air quality issues have been scoped out of this ES”.*

412. The updated ES goes onto state that *“the above conclusions have been drawn on the basis of the lack of material change resulting from the development with regard to air quality, but also on the basis of the continued implementation of existing mitigation measures. These have been formalised by the Dust Management Plan. These measures would also ensure that no likely significant effects are experienced regarding human health”.*

413. The submitted Dust Management Plan outlines a number of mitigation measures, these include minimising drop heights wherever practicable; dampening down haul roads / stockpiles; seeding of soil and overburden storage bunds; and vehicle speed restrictions.

414. Worcestershire Regulatory Services have been consulted and raise no objections to the proposal in respect of noise, dust and air quality.

415. 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.

416. Given the extent of mineral extraction is not proposed to be amended, thus, the proximity to sensitive receptors would remain unchanged, and subject to the implementation of the relevant extant conditions, together with the implementation of the submitted Noise Management Plan and Dust Management Plan, the Head of Planning and Transport Planning considers that the proposal would not alter the original conclusions of the report to committee.

417. With regards to light impacts, the original report to committee (MPA Ref: 15/000013/CM) *“confirmed that external lighting is proposed around the wharf area. The proposed lighting would be mounted on poles and be directional to minimise light spillage. The applicant does not propose to excavate sand and gravel after dusk, therefore, no lighting is proposed around the excavation area. The applicant proposing to adhere to the guidance by the Institution of Lighting Engineers “Guidance Notes for the Reduction of Obtrusive Light”.*

*Worcestershire Regulatory Services has made no adverse comments in respect to light pollution. The Head of Strategic Infrastructure and Economy considers that should planning permission be granted a condition should be imposed requiring details of the lighting scheme”.*

418. Condition 37 was imposed on the extant planning permission requiring a lighting scheme, which was discharged in accordance with the following information:

- No separate lighting towers will be installed as part of the development.
- Lighting will be restricted to 4 lighting units attached to the Telestackers (conveyors at the wharf), 2 on each.
- The height of the lighting above ground level will be approximately 3 metres for the riverside Telestacker, and approximately 4.5 metres on the landward side Telestacker.
- Each light is rated at 3,800 lumens, which translates into 120 Lux given a beam angle of 90 degrees. This is considered a minimum requirement to allow the barge loading operation to be undertaken safely during the hours of darkness.
- Concerning hours of operation, these will be restricted to 07:30 and 08:45 hours, and 15:45 and 16:15 hours, but only in instances where artificial illumination is required to undertake barge loading safely.

419. The Head of Planning and Transport Planning recommends the imposition of a condition requiring the development to be carried out in accordance with the approved lighting scheme.

420. With regard to contaminated land, Worcestershire Regulatory Services have raised no objections to the proposal.

421. 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).

422. The submitted HIA Screening and the updated 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.

423. The County Public Health Practitioner has been consulted and has reviewed the application and raises no objections to the proposal.

424. 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.

425. It is noted that Ripple Parish Council consider that community consultation should remain in place throughout the operational period of extraction and restoration. Condition 57 of the extant planning permission required the formulation of a Community Liaison Group for the duration of the development. The applicant is not proposing to remove or amend this condition, and it is noted that the last Community Liaison Group meeting was held recently in September 2022. A condition is recommended requiring the development to be carried out in accordance with the approved scheme.

426. In light of the above matters and the advice of consultees including Worcestershire Regulatory Services and County Public Health Practitioner, the Head of Planning and Transport Planning considers that, subject to the imposition of appropriate extant conditions and the development being carried out in accordance with the submitted Noise Management Plan and Dust Management Plan, 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**

427. 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..."*.

428. 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.

429. 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”*.

430. 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”*.

431. 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”*.

432. 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”*.

433. 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).

434. The majority of the proposed development is located within the floodplain of the River Severn (Flood Zone 3 - high probability), as identified on the Environment Agency's Indicative Flood Risk Map, apart from the field to the east of the main extraction area (known locally as 'Old Lands'), which is located within Flood Zone 1. Agricultural flood defences are located along the eastern

bank of the River Severn, adjacent to the application site, which offers protection up to a 1 in 5 year flood event.

435. 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 Zones 1 (low probability of flooding), 2 (medium probability of flooding), 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).

436. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of the water environment and flooding and considered that the Sequential Testing was passed as there were no known deposits of sand and gravel locally with a significantly lower flood risk. The original report to committee also noted that "*the Flood Risk Assessment concludes that the proposal would result in no detrimental impact being experienced by third parties due to increased flood risk. At worst...a rise in water levels 100 metres downstream of the surge pile of 6 millimetres (mm) is predicted (during a 1:1000 year event). However, this change would occur well upstream of settled areas around Upton-upon-Severn. During the later phases of the development, and once restored, a modest but permanent reduction in flood risk would be experienced (about 17mm reduction upstream in water levels during a 1:1000 year event).*

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

438. The updated ES states in relation to hydrology that the revised working scheme does not change the extent of quarrying workings; it seeks to amalgamate Phases 4 and 5 into a single phase (a new Phase 4). The restoration scheme is slightly revised in terms of the landform to be created, and this has been included in a Flood Risk Assessment Addendum which accompanies the application. In all other respects the baseline situation remains as per the previous application and ES.

439. The Flood Risk Assessment Addendum has considered the proposed development in conjunction with the proposed southerly extension to Ryall North Quarry (under planning application MPA Ref: 20/000009/CM) rather than in isolation to identify and potential cumulative impact. The assessment has been carried out for each of the working phases. The results show that the maximum increase for any of the working phases is for Phase 1 and is associated with the storage of soil. However, the maximum increase is only 6 mm which is of no practical consequence. In addition, this phase has been worked out and restored. After Phase 1, the flood risk is predicted to decrease as working progresses, with a maximum decrease being experienced by the completion of the proposed quarry extension (Phase 5 of the wider scheme) of approximately 16 mm, which the Flood Risk Assessment Addendum considers is a non-significant positive effect. The restoration of the wider quarry has been assessed as resulting in a 26 mm reduction in flood levels compared to the baseline situation, which the Flood Risk Assessment Addendum considers represents a non-significant positive effect.

440. The model shows that the revised working and restoration schemes does not lead to any increase in water levels at the critical receptor of Upton-upon-Severn. The Flood Risk Assessment Addendum states that with regard to the proposed revised Restoration Scheme, there is a small, but non-significant reduction in water levels. As such, the Addendum considers mitigation measures are not necessary.

441. 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 be implemented. 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.

442. 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's Court and Ryall Court Lane, which are not in the floodplain.

443. 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.

444. With regard to surface water the original report to committee considered that *“the proposal would not increase local surface water run-off rates and indeed would reduce run-off rates and provide additional floodplain storage”*.

445. The quarry is worked dry during periods of mineral extraction, therefore, dewatering (groundwater pumped out, termed dewatering, to achieve a dry working) is undertaken and eventually discharged into the River Severn. Dewatering is intermittent, with dewatering pumps switched off during non-operational periods. The original report to committee considered the impacts of dewatering upon groundwater and surface water and stated *“there is potential for the dewatering activities to affect the flow of the River Severn. The applicant states that the thick clay between the application site and the River Severn prevents groundwater from discharging to the River Severn to the west of the site. The groundwater discharges to the River Severn near to Upton-upon-Severn where the sand and gravels outcrop at surface. Dewatering would reduce this flow, but as groundwater abstracted during the dewatering activities would be discharged, following settlement, into the River Severn, the net impact of dewatering on flows within the River Severn would not be significant.*

446. *The floodplain is underlain by clay deposits. The drainage ditches within the floodplain, therefore, drain surface water from the floodplain itself and does not rely on groundwater flow from the sands and gravels under the clay deposits. Some small ditches within the extraction area would be lost, however, ditches and ponds external to the extraction area are perched on clay deposits and would not be significantly affected by dewatering of the site”*.

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

448. The updated ES states in relation to hydrogeology that *“the proposed development does not involve revisions to the hydrogeological environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. The findings of the ES that accompanied that application remain valid. That assessment identified no likely significant effects regards*



*hydrogeology would result from the quarry's operation, and that as the proposed development does not seek to change this, further consideration of hydrogeological issues have been scoped out of this ES".*

449. The updated ES states that *"the above conclusions have been drawn on the basis of the lack of likely significant effects resulting from the development with regard to hydrogeological environment, but also on the basis of the continued implementation of existing mitigation measures. These have been formalised within the submitted Pollution Prevention Plan. The implementation of the Pollution Prevention Plan for the life of the development would minimise the risk of hydrocarbons escaping into the wider water environment and is considered to be industry best practice. These measures would also ensure that no likely significant effects are experienced regarding human health"*.

450. The Environment Agency have been consulted and raise no objections, subject to the imposition of a condition requiring the development to be carried out in accordance with the original Flood Risk Assessment and new Flood Risk Assessment Addendum (an update to condition 3 of extant planning permission MPA Ref: 15/000013/CM).

451. South Worcestershire Land Drainage Partnership have also raised no objections to the proposal and consider the updated Flood Risk Assessment Addendum is acceptable in principle. The LLFA and Severn Trent Water Limited also both raise no objections to the proposal.

452. As is current practice, 'as raised' sand and gravel would be transported by barge along the River Severn to Ryall House Farm Quarry for processing. Barge movements would remain unchanged as a result of this proposal, with a 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.

453. The applicant has confirmed that the development would continue to be carried out in accordance with the approved 'Risk Assessment & Method Statement' for water transport by barge, of the extant planning permission MPA Ref: 15/000013/CM.

454. 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 and have no comments to make on the proposal. 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 approved 'Risk Assessment & Method Statement' for water transport by barge.

455. 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 this proposal would not change the overall original conclusions on the water environment, and is satisfied that this application would not have an unacceptable adverse effects on the water environment including flooding, subject to the imposition of the relevant extant conditions, and the development being carried out in accordance with the Flood Risk Assessment and Addendum and Pollution Prevention Plan, no discharge of foul or contaminated drainage from the site; and the development being carried out in accordance with '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**

456. 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"*.

457. 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"*.

458. 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..."*.

459. 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 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".*

460. The updated ES includes a chapter on flora and fauna and is accompanied by the original Ecological Impact Assessment, and an updated 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 and LEMP also accompanied the application, together with the original ES.

461. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of ecology and biodiversity. In respect to impacts upon statutory and non-statutory wildlife designated sites, the original report to committee considered that the proposal was situated beyond the hydrological, dust, noise and lighting zones of influence of the designated sites including Upton Hamm SSSI, Earls Croome Meadow SSSI and Brotheridge Green Meadows SSSI Pool and Mere Brooks LWS, and, therefore, no significant direct or indirect adverse impacts were anticipated. It considered that the proposed restoration scheme may have a positive indirect impact upon the SSSI's. With regard to impacts upon the River Severn LWS, whilst the original report to committee considered the development would require a temporary wharf to be constructed within the River Severn, encompassing approximately 189 metres of the river, due to the measures to limit impacts upon otters, (namely, the location of the wharf was proposed at the northern most extremity of unsuitable habitat for holting or couching sites; and the operational hours of barge movements would be restricted), it concluded there would be no significant direct or indirect impacts upon the River Severn LWS.

462. The original report to committee noted that great crested newts were discovered in a small pond in the south-east corner of the application site; and within a pond located approximately 425 metres east of the extraction area, within Ryall's Court. The applicant submitted a Great Crested Newt Mitigation Strategy, which proposed that prior to the translocation of great crested newts and destruction of the pond (in the application site), an application to Natural England would be made for a European Protected Species Licence. Existing ponds were to be enhanced to ensure adequate alternative receptor ponds for great crested newts, and additional ponds were to be created to provide steppingstones between the retained ponds. Great crested newts were to be translocated to the pond located to the east of the application site, at Ryall's Court.

463. Given the presence of great crested newts which are a European Protected Species, the MPA considered the proposal against the three Habitats

Directive "derogation tests", and concluded that the "derogation tests" were met, and that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, including the nearby Upton Ham SSSI and Earl's Croome Meadow SSSI, subject to the imposition of appropriate conditions; and the proposal would result in a net increase in biodiversity.

464. The updated ES and accompanying combined CEMP and LEMP state with regard to great crested newts that a Protected Species Licence from Natural England was granted in January 2020. The broad licence strategy comprises: a) the enhancement of 4 existing ponds (known as Ponds 1, 2, 4 and 5 within the combined CEMP and LEMP) and the creation of 4 new ponds (known as Ponds 6, 7, 8 and 9 within the combined CEMP and 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; 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.

465. Trapping out of great crested newts from the application site 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.

466. 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.

467. The combined CEMP and LEMP identified that a bat roost was present within an individual oak tree within the centre of Phase 4, which has now been felled under licence from Natural England and compensatory roost provision installed (2 bat boxes) on retained mature oak trees on the eastern boundary of the application site.

468. The combined CEMP and LEMP identifies that 1 badger sett (unoccupied outlier sett) is located on the boundary of the application site. In view of this, the applicant's mitigation strategy in respect of badgers is as follows. Prior to the commencement of each phase:

- **Stage 1:** The extent of the current phase would be clearly marked on a plan by the Quarry Manager and provided to an Appointed Ecologist
- **Stage 2:** A walk-over survey would be performed by an Appointed Ecologist. If no occupied badger setts are present, works would continue with no further constraint. If an occupied badger sett is found, a Development Licence may be required from Natural England in order to close the sett and allow works to proceed within the legislation. This

situation, or the potential compensation that might be required cannot, however, be predicted in advance of the walk-over survey

469. With regard to the protection of trees and veteran trees, the development seeks the retention of 2 veteran oak trees, as well as approximately 0.3 hectares (i.e., 50%) of the broadleaved scattered trees within the working scheme. Stand-offs from trees to be retained would follow recommendations set out in BS5837: 2012 'Trees in relation to design, demolition and construction' (2012). All retained trees would be safeguarded through the erection of post-and-wire fencing at the appropriate stand-off. 4 veteran trees have been felled as a result of the development, 1 located in Phase 3, and 3 located in Phase 4. A Veteran Tree Strategy has been developed which seeks to translocate the felled trees to form mounds in 2 veteran tree receptor areas, located to the east of the applications site (outside the floodplain). This Strategy offers similar conditions to those currently exploited by the saproxylic invertebrate fauna that would be present within the trees, whilst safeguarding against extinction due to flooding.

470. With regard to the restoration scheme, the updated ES states that the baseline adopted for the assessment is the currently approved restoration scheme. This is because the development proposed is, in part, a revision to that scheme.

471. The aim of the revised restoration scheme is to allow the creation of a waterbody that is capable of holding formal rowing competitions, as well as hosting other non-motorised water sports activities. To be able to host competitive rowing events the waterbody must conform to certain standards laid down by FISA. The applicant states that these requirements proved incompatible with the footprint of the waterbody currently approved, hence the proposed revised lake footprint (from approximately 15 hectares to approximately 20.3 hectares). Nevertheless, CEMEX are aware of the biodiversity benefits of the approved restoration scheme and state they have sought to retain these where possible. The applicant states that the proposed scheme would result in a restoration that would have the potential to be dual use, still providing a boost to the County's biodiversity whilst facilitating formal and informal water-based leisure / sporting opportunities (which would be the subject of a future separate planning application to the District Council).

472. In order to achieve the proposed overall landform and habitats, the overall 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

473. The applicant has submitted a table of biodiversity gain / loss comparing the consented restoration scheme under MPA Ref: 15/000013/CM compared to the proposed restoration scheme within the pre-existing consented application boundary, this states that there would be a biodiversity gain / loss of the following habitats:

- Semi-improved grassland (MG4 grassland) – plus approximately 1.72 hectares
- Improved grassland (agricultural grassland) – minus approximately 0.14 hectares
- Marshy grassland (MG9 wet grassland) – minus approximately 2.27 hectares
- Swamp (reedbed 0 to 2 metres water depth) – plus approximately 2.18 hectares
- Standing water (reedbed lake) – plus approximately 1.12 hectares
- Marginal vegetation (scrapes / swales) – minus approximately 0.5 hectares
- Standing water margin (0 to 2 metres lake water depth) – minus approximately 2.3 hectares
- Standing water (lake) – plus approximately 0.47 hectares
- Standing water (ponds) – minus approximately 0.1 hectares
- Hedgerows – minus approximately 559 metres
- Reinstated hedge / scrub (along River Severn) – plus approximately 25 metres
- Hedgerow trees – plus approximately 5 trees
- Ditches – plus approximately 169 metres

474. The applicant has also submitted a table comparing Section 41 habitats that would be delivered by the consented restoration compared to the proposed restoration scheme within the pre-existing consented application boundary. This demonstrates that there would be an increase of Section 41 habitat by approximately 2.59 hectares and a loss of approximately 559 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.

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

476. Natural England and Worcestershire Wildlife Trust have both been consulted due to the proximity of the proposals to SSSIs and LWSs, respectively. 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 Croome Meadow Site of SSSI, which lie with the locality of the application site.

477. Worcestershire Wildlife Trust have no objections to the proposal. They note the revised restoration scheme and combined CEMP and 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.

478. 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 CEMP and LEMP.

479. 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.

480. 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.

481. 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.

482. 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.

483. 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.

484. 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.

485. 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.

486. In response to a Regulation 25 Request (further information request), 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

487. 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.

488. 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 of 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).

489. 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).*

490. 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.

491. 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.

492. 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, this includes refuelling of plant in the dedicated site compound, daily inspections of plant and machinery for leaks, and regular maintenance of plant and machinery; and carrying out the development in accordance with the combined CEMP and LEMP.

493. 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.

494. 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.

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

496. 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.

497. In response to the submitted additional information relating to migratory fish and the 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

498. 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.

499. 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.

500. 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.

501. With regard to geology, the updated ES states that *“the proposed development does not involve revisions to the geological environment from that assessed by the ES that accompanied planning permission MPA Ref: 15/000013/CM. The findings of the ES that accompanied that application remain valid. That assessment identified no likely significant effects regards geology would result from the quarry’s operation, and that as the proposed development does not seek to change this, further consideration of geological issues have been scoped out of this ES”*.

502. 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.

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

504. 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, and Earth Heritage Trust, the Head of Planning and Transport Planning considers that this proposal would not change the overall original conclusions on ecology, biodiversity and geodiversity, and is satisfied that this application would not have an unacceptable adverse effects on 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, subject to the imposition of the relevant extant conditions, and an updated restoration scheme (correcting mislabelling), 10-year aftercare scheme for all created / restored habitats (apart from the agricultural grassland), a monitoring report in relation to statement of compliance for habitat creation and the development being carried out in accordance with the submitted CEMP, LEMP, and Fish Rescue Plan. The Head of Planning and Transport Planning considers that the proposal would be 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**

505. 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).

506. 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”*.

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

508. *“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”.*

509. 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”.*

510. 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: 20/000009/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, 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.

511. 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 conditions.

512. 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, as per condition 13 of extant planning permission MPA Ref: 15/000013/CM. 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. Condition 50 of the extant planning permission required a scheme for biodiversity interpretation, and a bird hide, but given a bird hide is no longer proposed, it is considered that this condition should be updated, and the interpretation strategy should be broadened to include cultural heritage, landscape, and geodiversity in addition to biodiversity.

513. 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.

514. 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.

515. 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.

516. 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.

517. 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.

518. 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.

519. 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.

520. 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.

521. 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.

522. 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).*

523. 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.

524. 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.

525. 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, and that on balance, proposed restoration and aftercare is acceptable, in accordance with Policy MLP 9 of the adopted Worcestershire Minerals Plan.

### **Impacts upon festival land and tourism**

526. Fish Meadow, which is located immediately to the south of the application site and the adjacent fields (to the south, south-east and south-west) are used as a venue and / or campsite for three annual music festivals (Sunshine Music Festival, Mello Festival and Upton Blues Festival) in Upton-upon-Severn.

527. As set out earlier under the 'Other Representations' section in this report, a letter of representation has been received objecting to the proposal on the grounds of stopping the Upton Blues Festival and Sunshine Festival going ahead if Fish Meadow could not be used for camping, and associated impact upon businesses in Upton-upon-Severn.

528. The current approved operations (as per the extant planning permission MPA Ref: 15/000013/CM) amount to a loss of an area of approximately 7.1 hectares of land used for music festivals.

529. 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.

530. 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.

531. The original report to committee (MPA Ref: 15/000013/CM) considered the impact upon the music festivals and associated impact on tourism and concluded that proposal would not have an unacceptable impact upon the music festival and whilst the proposal could have a potential temporary, minor and limited adverse impact upon tourism, the final restoration landform has the potential to have a positive long-term impact upon tourism to Upton-upon-Severn and the surrounding area.

532. 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 on to 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.

533. The applicant states that they are in contact with the festival organisers and have been made aware of the cables / pipes under 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 (MPA Ref: 20/000009/CM).

534. The applicant goes on to 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.

535. 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.

536. The Head of Planning notes that the music festivals have continued this year (Mellow Festival – 2 to 5 June; Upton Blues Festival – 15 to 17 July; and Sunshine Festival – 26 to 29 August) and that the amended proposal would not amend the extent of the working area, and thus would not encroach further onto the land used for festivals. In view of the above, it is considered that the proposal would not change the overall original conclusions on impacts on upon festival land and tourism and would not prejudice the future viability of festivals in this location.

### **Other matters**

## Economic Impact

537. 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).

538. 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”*.

539. 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”*.

540. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of its economic impact, stating that *“Ryall House Farm Quarry has been in operation since 1990, and has become a strategically important source of sand and gravel and associated aggregates to the local economy for some 24 years. The location is an important strategic location for CEMEX, with the quarry producing a wide range of construction materials, notably sands and gravels for concrete which thus feeds concrete batching plants in the county and sub region operated both by CEMEX and other concrete producers”*.

541. The original report to committee concluded that *“it is considered that the proposal would provide a small number of direct employment opportunities, secure the continued operation of processing sand and gravel at Ryall House Farm Quarry, thereby securing the existing jobs, as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market. Therefore, it is considered that the proposal would provide substantial sustainable economic development benefits to the local economy in accordance with the NPPF and this weighs considerably in its favour”*.

542. The applicant has confirmed that the proposal would continue to employ approximately 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 staff members).

543. The Head of Planning and Transport Planning considers that this proposal would not change the above conclusions that the proposal would provide substantial sustainable economic growth benefits to the local economy in accordance with the NPPF.

544. The applicant notes in the updated ES that *“the proposed landform would facilitate a wide range of non-powered water sports and be compliant with rowing governing body’s guidelines for competition rowing courses whilst providing a biodiverse restoration. It would be the sole compliant waterbody in the West Midlands, North and South-West England and the whole of Wales. The positive economic impact of a potential water sports facility are difficult to quantify and further planning permissions would be required. Nevertheless, the prerequisite to the existence of a water sports facility is a suitable body of water, which the proposed development would provide. It is logical to assume, however, that the additional activities that a water sports facility could offer would attract additional visitors to the town, increasing footfall and, therefore, economic activity compared to both the pre-quarrying environment and the currently approved restoration scheme. Examples within the County of development of the nature envisaged include Top Barn Activity Centre at Holt, and Croft Farm Water Park, Bredon’s Hardwick, both former sand and gravel quarries. However, neither site can offer the competitive rowing facilities that can be provided at Ryall North”*.

545. As noted by the applicant above, should planning permission be granted by the MPA for the current proposals, 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 an amendment to the restorations scheme should be considered on its own merits (i.e., is the proposed restored landform an acceptable use of land in planning terms).

#### Climate change and sustainability

546. 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).

547. 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...”.*

548. 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*”.

549. 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).

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

551. “*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.*

552. *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”.*

553. The application confirms that the proposed development is a continuation of the existing operations at Ryall North Quarry, with an amended working

scheme and restoration scheme. The applicant states that *“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 to Ryall North 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.

554. 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”*

555. The applicant states that *“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”*

556. 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 original ES, updated 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.

557. Given that the proposal would be a continuation of the current operations, continuing to use barges as opposed to HGVs to transport the sand and gravel to the processing plant at Ryall House Farm; making use of an existing processing plant and associated facilities, negating the need for the setting up of a new processing plant and associated facilities; and 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

558. 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”*.

559. 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”*.

560. 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.

561. The original report to committee (MPA Ref: 15/000013/CM) considered the development in respect of cumulative effects and found no unacceptable adverse impacts in terms of combined impacts of multiple developments, and the inter-relationships between impacts.

562. The original ES concluded that *“based upon the studies and content of the individual chapters, the underlying conclusion of the ES is that there is no single topic or combination of issues which should objectively prevent the development from proceeding”*.

563. The updated 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’, ‘Soil, Geology and Hydrogeology’, ‘Material Assets / Cultural Heritage’, and ‘Main Alternatives / Risk & Major Accidents’.

564. With regard to ‘Water (Hydrology)’, the updated ES states that the Flood Risk Assessment *“was predicated on the cumulative quarry development and not restricted to the proposed development alone (see paragraph 10.5 above) in order to account for the cumulative impact of the quarry as a whole on flood risk”*.

565. With regard to ‘Air Quality’, the updated ES sets out that the application site (existing quarry) would not be operated simultaneously with the proposed southern quarry extension, but sequentially once the existing quarry has been worked out. No cumulative impacts have, therefore, been identified.

566. With regard to ‘Landscape & Visual’ the updated ES states that *“the assessment accounts for the extant environment; the Company is not aware of any proposed development in the vicinity of the application site that may materially change the conclusions reached in the assessment. In considering the permanent impacts of the proposed development the assessment has considered the restoration of the quarry as a whole [including the proposed southern quarry extension] rather than just the application area. As such cumulative impacts have been considered”*.

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



568. 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.

569. 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. It is also noted that the fallback position would be the creation of a lake as approved under planning permission MPA Ref: 15/000013/CM, albeit would be of a different shape.

570. 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

571. 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.

572. The updated ES includes a chapter which considers '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

573. 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.

574. 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.

575. 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

576. 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.

577. 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.

578. 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

579. 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

580. CEMEX UK Materials Ltd under Section 73 Town and Country Planning Act 1990 (as amended) are seeking to not comply with conditions 3, 5, 10, 11, 12, 13, 49 and 53 of planning permission: 15/000013/CM to facilitate an alternative working scheme accounting for a proposed quarry extension to the south of the existing site, and a revised restoration scheme that establishes a final lake design suitable for water sports at Ryall North Quarry, land off Ryall Court Lane, Holly Green, Upton-upon-Severn, Worcestershire.

581. The applicant states that they have submitted a separate planning application (MPA Ref: 20/000009/CM) seeking planning permission for the extraction of 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, and land immediately south and adjacent to the land subject to this planning application. The applicant states that the purpose of that application is twofold, both to allow the winning and working of sand and gravel as an extension to the existing quarry site, but also to allow the overall resultant void to be restored to a lake that reflects the guidance provided by FISA, the governing body for rowing at the global level.

582. 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.

583. In order for the extant planning permission to 'mesh' into the proposed southerly extension so that the two planning units are in effect one development, the applicant has applied to vary and / or remove a number of conditions (conditions 3, 5, 10, 11, 12, 13, 49 and 53) attached to MPA Ref: 15/000013/CM to substitute revised working and restoration schemes; and on the basis that these conditions require specified actions to be taken triggered by reaching a point in the original development; the revised working scheme means these trigger points require revision.

584. The proposed amended restoration scheme would result in a larger, more uniform lake (broadly rectangular in shape), with a sinuous and irregular western lake boundary. 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 maximum depth of the open water would be 6.5 metres towards the centre of the lake, with average depths of 5 metres. This is similar to the approved lake.

## Alternatives

585. 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 original ES considered alternatives, focussing on alternative means by which the minerals site might be worked (phasing and direction of working) and restored, and alternative wharf locations. The updated ES also considered alternatives, focussing on alternative restoration schemes, but these were 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, 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.

#### Location of the development

586. 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...*".

587. It is considered that the location of the development has already been established in the granting of planning permission MPA Ref: 15/000013/CM, and it is noted that Policy MLP 5: 'Extant Mineral Sites and Safeguarded Resources' of the adopted Worcestershire Minerals Local Plan provides policy support to existing / established mineral sites and alterations them.

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

588. With regard to the soil resource and BMV agricultural land, 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 original ES, which identified that the majority of the site was Grade 3a (about 51.9% of the site), which was found mainly in the west of the site, with a small area of Grade 2 (about 6.1% of the site) in the south of the site. The remainder of the site was Grade 3b, which was found mainly in the east of the site.

589. The majority of the BMV agricultural land within the site would be lost due to the balance of materials and the height of the ground water at the site, resulting in a lake landform. The original report to committee noted that Natural England had not raised an objection to the proposal on grounds of impact upon permanent pastureland or loss of BMV agricultural land, and as they stated that they had no issues with soils and soil management for the original planning application, in view of this it was considered that refusal on the grounds of loss of BMV agricultural land could not be justified.

590. Based on the advice of Natural England, the Head of Planning and Transport Planning considers that this application would not alter the original conclusions above, and subject to the imposition of the relevant extant conditions relating to the management of the soil resource; and the development being carried out in accordance with the submitted soil handling

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

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

591. The applicant has confirmed that no changes to traffic and transport matters are proposed as a result of the development. No aggregate would be sold directly from the site, with aggregate being 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, new public rights of way (footpaths) would be created around the perimeter of the site, compensating for the loss of the yet to be established new continuous footpath (Footpaths RP-554, RP-555, EA-561 and RP-556) approved under planning permission MPA Ref: 15/000013/CM.

592. 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 the relevant extant conditions, in accordance 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

593. With regard to landscape character and visual impact, the Head of Planning and Transport Planning considers that whilst the proposal would result in a more uniform and rectangular lake, particularly along the eastern lake boundary, it does strike a balance between creating a landform that would be capable of meeting the FISA standards, whilst being more sinuous and irregular on the western boundary, which is more natural and in keeping with the landscape character of the area. Given the fallback position of a lake in this location, and due to the flat expansive landscape, with intervening vegetation, the Head of Planning and Transport Planning considers that overall, there would be restricted visual impacts as a result of the proposed development.

594. 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 extant conditions, including requiring the site to be restored within a set timescale, limits of extraction; phasing; limiting the height of stockpiles, no processing or treatment of sand and gravel on site; annual topographical surveys; aftercare scheme; being carried out in accordance the approved lighting scheme, updated soil handling methodology, and combined CEMP and LEMP with associated compliance monitoring; updated restoration 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

595. There are a number of heritage assets with the context of the application site. Due to the open and expanse flat topography of the application site and its wider environs, the position of the river and roads relative to the application site, the distance from heritage assets, and the nature of the proposed changes to the restoration scheme, the Head of Planning and Transport Planning considers the proposals would not alter the original conclusions of the report to committee, in that the proposal would not lead to any material harm to any of the identified heritage assets.

596. 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)

597. With regard to residential amenity, based on the advice of consultees including Worcestershire Regulatory Services and County Public Health Practitioner, the Head of Planning and Transport Planning considers that, subject to the imposition of appropriate extant conditions and the development being carried out in accordance with the submitted Noise Management Plan and Dust Management Plan, that there would be no 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

598. With regard to the water environment including flooding, the Flood Risk Assessment Addendum demonstrates that the maximum increase for any of the working phases is for Phase 1 and is associated with the storage of soil. However, the maximum increase is only 6 mm which is of no practical consequence. In addition, this phase has been worked out and restored. After Phase 1, the flood risk is predicted to decrease as working progresses, with a maximum decrease being experienced by the completion of the proposed quarry extension (Phase 5 of the wider scheme) of approximately 16 mm, which the Flood Risk Assessment Addendum considers is a non-significant positive effect. The restoration of the wider quarry has been assessed as resulting in a 26 mm reduction in flood levels compared to the baseline situation, which the Flood Risk Assessment considers represents a non-significant positive effect. The model shows that there is a small, though barely significant reduction in water levels at Upton-upon-Severn.

599. 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.

600. As is current practice, 'as raised' sand and gravel would be transported by barge along the River Severn to Ryall House Farm Quarry for processing. Barge movements would remain unchanged as a result of this proposal. The applicant has confirmed that the development would continue to be carried out in accordance with the approved 'Risk Assessment & Method Statement' for water transport by barge, of the extant planning permission MPA Ref: 15/000013/CM.

601. 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 this proposal would not change the overall original conclusions on the water environment, and is satisfied that this application would not have an unacceptable adverse effects on the water environment including flooding, subject to the imposition of the relevant extant conditions, and the development being carried out in accordance with the Flood Risk Assessment and Addendum and Pollution Prevention Plan, no discharge of foul or contaminated drainage from the site; and the development being carried out in accordance with '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

602. Taking into account the views of consultees including Natural England, the Environment Agency, Worcestershire Wildlife Trust, the County Ecologist, and the Earth Heritage Trust, the Head of Planning and Transport Planning considers that this proposal would not change the overall original conclusions on ecology, biodiversity and geodiversity, and is satisfied that this application would not have an unacceptable adverse effects on 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, subject to the imposition of the relevant extant conditions, and an updated restoration scheme (correcting mislabelling), 10-year aftercare scheme for all created / restored habitats (apart from the agricultural grassland), a monitoring report in relation to statement of compliance for habitat creation and the development being carried out in accordance with the submitted CEMP, LEMP, and Fish Rescue Plan. The Head of Planning and Transport Planning considers that the proposal would be 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

603. 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, 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.

604. 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, and that on balance, proposed restoration and aftercare is acceptable, in accordance with Policy MLP 9 of the adopted Worcestershire Minerals Plan.

### Impacts upon festival land and tourism

605. Fish Meadow, which is located immediately to the south of the application site and the adjacent fields (to the south, south-east and south-west) are used as a venue and / or campsite for three annual music festivals (Sunshine Music Festival, Mello Festival and Upton Blues Festival) in Upton-upon-Severn.

606. The current approved operations (as per the extant planning permission MPA Ref: 15/000013/CM) amount to a loss of an area of approximately 7.1 hectares of land used for music festivals.

607. The Head of Planning notes that the music festivals have continued this year and that the amended proposal would not amend the extent of the working area, and thus would not encroach further onto the land used for festivals. In view of the above, it is considered that the proposal would not change the overall original conclusions on impacts on upon festival land and tourism and would not prejudice the future viability of festivals in this location.

### Conclusion

608. 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 5, 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**

609. **The Head of Planning and Transport Planning recommends that, having taken the environmental information into account, planning permission be granted for the carrying-out of development pursuant to planning permission: 15/000013/CM “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” without complying with conditions 3, 5, 10, 11, 12, 13, 49 and 53 of that permission, to facilitate an alternative working scheme and progressive restoration scheme to agriculture and a lake suitable for water sports at Ryall North Quarry, land off Ryall Court Lane, Holly Green, Upton-upon-Severn, Worcestershire, subject to the following conditions:**

### **Notification**

- 1) **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 date of commencement of mineral extraction in any phase;**
  - ii. **The date of commencement of soil stripping in any phase;**
  - iii. **The date of completion of mineral extraction in any phase; and**
  - iv. **The date of completion of mineral extraction operations.**

### **Approved Documents and Drawings**

- 2) **The land to which this permission relates is that shown edged in red on approved drawing numbered: 20-04/P/RYLN/1, titled: ‘Location Plan’, dated April 2020. For the avoidance of doubt this permission does not grant Phase 5, which is outside the application site boundary.**
- 3) **The development hereby permitted shall be carried out in accordance with the following documents and drawings, except where otherwise stipulated by conditions attached to this permission:**

### **Documents:**

- **Planning Application Statement – Ryall North Quarry, dated 10 March 2015;**
- **Supplementary Supporting Statement – Ryall North Quarry – Proposed Extraction of Sand & Gravel, dated October 2015;**
- **Part 2 – Supporting Statement – Ryall North Quarry, Ryall’s Court, Ryall, Upton-upon-Severn, Worcestershire, dated April 2020;**

- Flood Risk Assessment for Quarry development at Ryall Quarry North, Upton-upon-Severn, dated February 2016;
- Flood Risk Assessment Addendum for Quarry Development at Ryall North Quarry, Upton-upon-Severn, Version 1, dated March 2019; and
- Memorandum, titled: Ryall North – Private Water Supply Abstraction at Day House Cottage, dated 3 March 2016.

#### Drawings:

- 20-04/P/RYLN/1, titled: 'Location Plan', dated April 2020;
- 20-04/P/RYLN/2A, Revision A, titled: 'Site Plan and General Arrangement', dated October 2021;
- 14\_C060\_RYLN\_003, titled: 'Topographic Survey', dated October 2014;
- 14\_C060\_RYLN\_004\_A, titled: 'Location of Proposed Wharf', dated December 2014;
- 14\_C060\_RYLN\_005, titled: 'Cross Sections', dated October 2014;
- 14\_C060\_RYLN\_006\_B, titled: 'Indicative Wharf Design', dated December 2014;
- 14\_C060\_RYLN-009, titled: 'Crossing Detail PROW 508(B)', dated May 2015;
- 14\_C060\_RYLN\_010, titled: 'Crossing Detail PROW 505(B)', dated May 2015;
- 180/-S253-RYN-D-101, titled: 'Phase 1', dated February 2019;
- 180/-S253-RYN-D-102, titled: 'Phase 2', dated February 2019;
- 180/-S253-RYN-D-103, titled: 'Phase 3', dated February 2019;
- 180/-S253-RYN-D-104, titled: 'Phase 4', dated February 2019;
- SO8542 D 3050 110805, titled: 'Overburden Isopachytes', received by the Mineral Planning Authority 20 March 2015;
- SO8542 D 3051 110805, titled: 'Minerals Isopachytes' received by the Mineral Planning Authority 20 March 2015;
- SO8542 D 3052 110805, titled: 'Bedrock Surface Contours' received by the Mineral Planning Authority 20 March 2015;
- 15-S128-RYN-D-002, titled: 'Soil bunds', received by the Mineral Planning Authority 14 October 2015;
- 15-S128-RYN-D-003, titled: 'Cross Sections 1-3', received by the Mineral Planning Authority 14 October 2015;
- 1905\_C028\_RYLN\_005-Rev A, titled: 'Public Rights of Way', dated November 2021;
- 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; and
- RN - RX / 1C, Revision A, titled: 'Proposed Draft Restoration Scheme Cross Section', dated June 2021.

#### Time Limits

- 4) All mineral extraction shall cease and the site shall be restored in accordance with the approved restoration scheme as required by Condition 11) of this permission, before 31st December 2026. Should extraction cease before this date the Mineral Planning Authority shall be notified in writing within 1 month of extraction ceasing.

#### Extraction Boundary

- 5) No extraction of sand and gravel shall take place outside the limit of the extraction boundary of Phases 1 to 4, as shown on approved drawing numbered: 180/-S253-RYN-D-104, titled: 'Phase 4'.

#### 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.

#### **Site Compound**

- 8) The development hereby approved shall be carried out in accordance with approved site compound details, as shown on drawing numbered: 14\_C060\_RYLN\_106, titled: 'Site Compound'.

#### **Working Hours**

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

#### **Phasing**

- 10) The development hereby approved (Phases 1 to 4) shall be carried out in accordance with the working programme, progressive restoration and phasing shown on approved drawings numbered: 180/-S253-RYN-D-101, titled: 'Phase 1'; 180/-S253-RYN-D-102, titled: 'Phase 2'; 180/-S253-RYN-D-103, titled: 'Phase 3'; and 180/-S253-RYN-D-104, titled: 'Phase 4'.

#### **Restoration**

- 11) Notwithstanding the submitted details, within 3 months of the date of this permission, a detailed restoration scheme for the site, including the wharf and surge pile area, updating labelling to reflect 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, under Condition 15) 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.
- 12) The restoration of the fields subject to 'short-term soil & overburden storage' as shown on approved drawing numbered: 180/-S253-RYN-D-101, titled: 'Phase 1', shall be carried out in accordance with the approved 'Ryall North: Restoration to Agriculture and Nature Conservation Aftercare and Management Details Pursuant to Planning Condition 12', dated 21 August 2019.

#### **Aftercare**

- 13) 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.

- 14) An aftercare scheme for each phase shall be submitted to the Mineral Planning Authority for approval in writing within 6 months of the completion of mineral extraction in the preceding phase. Such a scheme shall specify the steps which are to be taken to bring the land up to the required standard for the land uses shown on the Restoration Scheme, as required by Condition 11) of this permission. These steps shall include the following:
- i. Control of invasive species;
  - ii. The submission of Habitat Management Plan setting out the actions that are to be undertaken to guide the initial habitat / vegetation establishment works, habitat creation and ongoing restoration including management practices such as cutting and removal of vegetation, grazing, pollarding and protection and replacement of tree and shrub plantings;
  - iii. Management of soil, fertility and weeds;
  - iv. Drainage;
  - v. A timetable for undertaking the aftercare scheme; and
  - vi. The establishment of an aftercare working group comprising of the operator, the Mineral Planning Authority and ecological specialists including a timetable for frequency of meetings. The working group shall assess and review the detailed programmes of aftercare operations and the setting out of actions for subsequent years having regard to the condition of the land, progress on its rehabilitation and necessary maintenance;

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

#### Landscape, Ecology and Biodiversity

- 15) The development hereby approved shall be carried out in accordance with the approved 'Combined CEMP and LEMP for the Extended Ryall North Quarry, Upton-upon-Seven, Worcestershire, WR8 0PF', version 10, dated April 2022.
- 16) 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.

- 17) The development hereby approved shall be carried out in accordance with the approved 'Ryall North Quarry HRA', dated September 2022.
- 18) 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.

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

- 19) 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).
- 20) The development hereby approved shall be carried out in accordance with the approved '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 April 2020; and 'Soil Depth and Handling Methodology Note in Response to Natural England – Ryall North', dated August 2021.
- 21) Soil stripping shall not take place until any standing crop or vegetation has been cut and removed.
- 22) 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.
- 23) 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.
- 24) All stripped topsoils and subsoils shall be permanently retained on site for subsequent use in restoration, as detailed in the application.
- 25) 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.
- 26) Prior to the use of any area for the storage of subsoil or overburden that area shall first be stripped of topsoil.
- 27) Plant or vehicles shall not cross areas of unstripped topsoil or subsoil except for the express purpose of stripping operations.

- 28) The temporary topsoil storage bunds as shown as on approved drawing numbered: 180/-S253-RYN-D-101, titled: 'Phase 1', shall be constructed to a maximum height of 3 metres prior to the extraction of sand and gravel from Phase 1, and shall only be removed upon completion of sand and gravel extraction in Phase 2, as shown on approved drawing numbered: 180/-S253-RYN-D-102, titled: 'Phase 2'.
- 29) The storage of subsoils and overburden shall be in accordance with approved drawings numbered: 15-S128-RYN-D-002, titled: 'Soil bunds' and 15-S128-RYN-D-003, titled: 'Cross Sections 1-3' and shall not exceed a height of 5 metres.
- 30) All soil storage mounds that remain in situ for more than 3 months or over winter shall be seeded, managed and maintained in accordance with the approved 'Ryall North Quarry – Soil Storage Mounds – Details Pursuant to Condition 27', received by the Mineral Planning Authority 26 July 2016.
- 31) 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.
- 32) 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.
- 33) 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 11) of this permission.

#### **Access and Highway Safety**

- 34) Vehicular access to and from the site shall only be gained via Ryall Court Lane only, as shown on approved drawing numbered: 20-04/P/RYLN/1, titled: 'Location Plan'.
- 35) 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.
- 36) All sand and gravel extracted from the site shall be transported by

barge only.

- 37) 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.
- 38) No mud, dust or debris shall be deposited on the public highway.

#### Public Rights of Way

- 39) The development hereby approved shall be carried out and maintained in accordance with approved public rights of way crossing points, which cross Bridleways UU-508 and EA-547 / RP-505, as shown on drawings numbered: 14\_C060\_RYLN-009, titled: 'Crossing Detail PROW 508(B)'; 14\_C060\_RYLN\_004\_A, titled: 'Location of Proposed Wharf'; and 14\_C060\_RYLN-010, titled: 'Crossing Details PROW 505 (B)'.

#### Lighting

- 40) The development hereby approved shall be carried out and maintained in accordance with approved site lighting scheme, as shown on drawings numbered: TD 17009 Sheet 1 of 2, titled: 'Boat Loading Facility Lighting Scheme'; and TD 17009 Sheet 2 of 2, titled: 'Boat Loading Facility Lighting Scheme Section A-A'.
- 41) Notwithstanding the provisions of Condition 40) of this permission, details of any additional lighting to be installed at the site, shall be submitted to the Mineral Planning Authority for approval in writing prior to being erected. These details shall include:
- i. Height of the lighting posts
  - ii. Intensity of the lights
  - iii. Spread of light in metres (Lux plan)
  - iv. Any measure proposed to minimise the impact of the lighting or disturbance through glare;
  - v. Any measures to minimise the impact of lighting upon protected species and habitats, in particular bats; and
  - vi. Times when the lighting would be illuminated.

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

#### Noise

- 42) 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.
- 43) 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.

- 44) The development hereby approved shall be carried out in accordance with approved 'Appendix H: Noise Management Plan – Ryall North Quarry' of 'Part 2 – Supporting Statement', dated April 2020.
- 45) Notwithstanding the provisions of Condition 44) 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;
  - vi. Any pumps, generators and compressors shall either be electrically powered and fitted with an acoustic cover where necessary; or diesel powered pumps, generators and compressors shall be installed within acoustic enclosures.

#### Dust

- 46) The development hereby approved shall be carried out in accordance with approved 'Appendix G: Dust Management Plan' of 'Part 2 – Supporting Statement', dated April 2020.
- 47) Notwithstanding the provisions of Condition 46) 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;
- vi. The cessation of operations in conditions when dust cannot be controlled.

#### **Stockpiles**

- 48) The height of any stockpiles of sand and gravel shall not exceed 7.5 metres.

#### **Water Environment**

- 49) The development hereby approved shall be carried out in accordance with the approved 'Condition 43 - Flood Management Plan', received by the Mineral Planning Authority 10 August 2016; and drawing numbered: 14\_C060\_RYLN\_104, titled: 'Evacuation Plan'.
- 50) The wharf and surge pile infrastructure hereby approved shall be carried out and maintained in accordance with the approved cover letter pursuant to Condition 44 of planning permission 15/000013/CM, dated 20 June 2016, and received by the Mineral Planning Authority 21 June 2016; and drawings numbered: 16\_C060\_RYLN\_102, titled: 'Trees to be Removed'; and TD 16018, Rev O, titled: 'Boat Loading Facility Section A-A'.
- 51) The development hereby approved shall be carried out in accordance with the approved 'Risk Assessment & Method Statement – Ryall North to Ryall Quarry' for water transport by barge, dated 27 August 2015.
- 52) 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.
- 53) The following measures shall be undertaken in order to mitigate the risk of water pollution arising during the mineral extraction operations and subsequent restoration works:
  - i. There shall be a maximum speed limit of 10 mph within the site to reduce the likelihood and significance of any collisions;
  - ii. All plant should be regularly maintained and inspected daily for leaks of fuel, lubricating oil or other contaminating liquids;
  - iii. Maintenance of plant and machinery should be undertaken within the site compound approved under Condition 8) of this permission, or off-site, as appropriate, to minimise the risk of uncontrolled release of polluting liquids;
  - 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.
- 54) 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.

- 55) 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.
- 56) The development hereby approved shall be carried out in accordance with the approved 'Appendix E: Pollution Prevention Plan' of 'Part 2 – Supporting Statement', dated April 2020.

#### Interpretation Strategy

- 57) Within 6 months of the date of this permission, 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

- 58) The development hereby approved shall be carried out in accordance with the approved 'Ryall North Quarry Malvern Worcestershire – Written Scheme of Investigation for an Archaeological Strip, Map & Sample Excavation', dated September 2016; and 'Ryall North Quarry Malvern Worcestershire – Written Scheme of Investigation for an Archaeological Evaluation', dated September 2016, as updated by 'Phase 4 & 5 Ryall North Quarry Malvern Worcestershire – Written Scheme of Investigation for an Archaeological Strip, Map and Sample Excavation', dated July 2021.
- 59) The medieval ridge and furrow protective fencing installed within the fields subject to 'short-term soil & overburden storage' as shown on approved drawing numbered: 180/-S253-RYN-D-101, titled: 'Phase 1', shall be carried out and maintained in accordance with the approved cover letter pursuant to Condition 55 of planning permission 15/000013/CM, dated 26 July 2016 and received by the Mineral Planning Authority 10 August 2016; and drawing numbered:

14\_C060\_RYLN\_105, titled: 'Extent of Archaeological Protection Area'.

#### Topographical Survey

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

#### Local Liaison

- 61) The liaison arrangements with the local community shall be carried out in accordance with the approved 'CEMEX UK Operations Ltd – Ryall North, Community Liaison Group', received by the Mineral Planning Authority 15 September 2016.

#### Cessation

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

## Contact Points

### County Council Contact Points

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

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## 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 20/000015/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.