

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

Appeal by NRS Aggregates Ltd

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

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

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

Statement of Case

October 2022



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Appendices

Appendix 1 – Justification for a Public Inquiry

1. Introduction

1.1 This

present at the debate and provided information and support to the Development Management Team

3. Background

3.1 The section of the Statement sets out an overview of the Appeal Site and an overview of the planning history.

Appeal Site and Surrounding Context

3.2 A full description of the Appeal Site and its surroundings is set out in the draft Statement of Common

approximately 80 metres AOD). An overburden bund (overburden is unsaleable materials such as clay or un-saleable silty sand that lies above the mineral) would be located within the north of the processing plant site area measuring approximately 6 metres high.

- 4.8 The phased extraction of all mineral would take place above the natural water table. The development will also include the restoration and enhancement of the site/local landscape setting and green infrastructure. A new agricultural parkland will be created designed to enhance local access, amenity and wellbeing with the provision of approximately 2.3km of new routes of public footpaths, cycleways, bridleways and pocket parks. Native woodland blocks will be re-established to reflect previous social historic land uses, hedges will be strengthened, and new acidic rich meadow grassland will be developed to promote biodiversity and educational opportunities.
- 4.9 To aid in this process c. 60,000 m³ of inert

5. Planning Policy

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

Local Policy

distinctiveness of each of the strategic corridors sets a framework for the effective delivery of multifunctional green infrastructure priorities”

- 5.8 Policy MLP 3: ‘Strategic Location of Development – Areas of Search and Windfall Sites within the Strategic Corridors’ of the adopted Minerals Local Plan (July 2022) states that: **“a) planning permission will be granted for new mineral developments and extensions to extant sites within allocated areas of search where there is a shortfall in supply as demonstrated by Part c)”**.
- 5.9 Part c) of the policy states: **“a shortfall in supply for a broad mineral type will be considered to exist where: i) there is a shortfall in extant sites and allocated specific sites and / or preferred areas to meet the scale of provision required over the life of the plan...”**
- 5.10 The Appellant notes that the site is located within a strategic corridor and within an area of search as set out in the adopted Minerals Local Plan (July 2022).
- 5.11 Other policies of relevance to the appeal are:
- x The Worcestershire Minerals Local Plan (adopted July 2022):
 - o Policy MLP 7: Green Infrastructure;
 - o Policy MLP 11: North West Worcestershire Strategic Corridor;
 - o Policy MLP 14: Scale of Sand and Gravel Provision;
 - o Policy MLP 15: Delivering Steady and Adequate Supply of Sand and Gravel;
 - o Policy MLP 26: Efficient Use of Resources;
 - o Policy MLP 27: Green Belt;
 - o Policy MLP 28: Amenity;
 - o Policy MLP 29: Air Quality;
 - o Policy MLP 30: Access and Recreation;
 - o Policy MLP 31: Biodiversity;
 - o Policy MLP 32: Historic Environment;
 - o Policy MLP 33: Landscape;
 - o Policy MLP 34: Soils;
 - o Policy MLP 35: Best and Most Versatile Agricultural Land;
 - o Policy MLP 36: Geodiversity;
 - o Policy MLP 37: Water Quality and Quantity;
 - o Policy MLP 38: Flooding;
 - o Policy MLP 39: Transport; and

planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations"

- 5.16 Minerals can only be worked where they are found, and mineral working is a temporary use of land. Paragraph 150 of the NPPF identifies certain forms of development as not inappropriate development within the Green Belt, this includes mineral extraction and engineering operations, **"provided they preserve its openness and do not conflict with the purposes of including land within it"**
- 5.17 The appellant remains satisfied that the proposals preserve openness and do not conflict with the purposes of including land within the Green Belt. However, the appellant will demonstrate that given the clear need and sustainable benefits of developing a sand and gravel quarry within this location, the associated benefits to the local economy and the biodiversity and restoration benefits of the proposal, very special circumstances exist that justify the development of a quarry in this location.
- 5.18 Paragraph 209 of the NPPF re-states the long established concept that minerals **"can only be worked where they are found"** Paragraph 211, sets out that **"when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy"** Paragraph 213 adds that minerals planning authorities should plan for a steady and adequate supply of aggregates by inter alia maintaining sufficient reserves (landbank) of at least 7 years for sand and gravel, whilst ensuring that any aggregate materials of a specific type or quality which have a distinct and separate market are not compromised.

National Planning Practice Guide (NPPG)

- 5.19 The Appellant will refer to relevant elements of the PPG as required within evidence. In particular, paragraph 001 will be explored, which sets out that minerals **"make an essential contribution to the**

6. Appellant Response to Reasons for Refusal

- 6.1 This section of the Statement of Case sets out the Appellant's position in relation to the Council's Reasons for Refusal.
- 6.2 Whilst the Inspector is, of course, entitled to determine the Appeal anew it is emphasised that the Council is required to clearly state the reasons why it refused planning permission. Section 35(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) states that: "(b) where planning permission is refused, the notice must state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision".
- 6.3 Accordingly, it is inferred that the Council raises no other technical or policy objections to the Appeal Proposal.
- 6.4 As set out in Section 2 of this Statement, the Council has put forward nine reasons for refusal. These reasons are taken in turn in this section for the Appeal, with the Appellant's case put forward as to why the reason is incorrect. Based on this analysis, it is the Appellants case that no material reason for refusal has been substantiated, the Appeal should be allowed, and permission should be granted for the development scheme as submitted to the Council.

Reason for Refusal 1 –

development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances, where the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Notwithstanding this, the NPPF does indicate that both mineral extraction and engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The purposes referred to are set out in paragraph 138, namely:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

6.8 With regards the Council's reason for refusal, it appears that the concern is in relation to **"an unacceptable impact on openness of the Green Belt"** this is the only justification for the reason set out in the information section of the Decision Notice. In noting that only openness is cited in the reason, it is presumed that the Council are not claiming that the proposals conflict with the purposes of including land within the Green Belt (i.e. points a to e in para 6.9 above). Furthermore, in review of the Minutes of the Committee Meeting (CD10.03), the Council appear to have given no consideration to very special circumstances to overcome this harm.

6.9 In relation to NPPF policy therefore, the consideration rests with whether there is a significant effect on the openness of the Green Belt.

6.10 The proposed development would, notwithstanding its duration, be a temporary activity and whilst the proposal would disturb the site for a period of time, the site would only progressively be disturbed and it would be progressively restored to an open state following completion of extraction and would be no more built up on completion of the development as a result of the proposal as it is now. Whilst the proposal would be visible, it would not be very visible due to the topography, proposed temporary soil storage / visual screening bunds, existing 1.1 (w)5.3 (j)5.5 (p)6.1 (rh5 (m)-6.4 (p)6.D(e)-2 Tc -0.0.1 r (bu)6 ((s)4.8 ((a)-1 (r4(p)6

6.26 The Appellant will set out how the Appeal Scheme would help provide and secure jobs for people directly and indirectly employed as part of the quarry operations and which contribute to the local economy through wages, business rates, use of local suppliers, and at a national level; to the economy through aggregates levy [a tax on sand, gravel and rock] and other taxation processes as well as contributing to the wider growth aspirations for the county through the supply of local aggregates to the construction market.

Reason for Refusal 5 – Loss of 2 Tree Preservation Order (TPO) trees

6.27 In review of the information section of the DecisiroArtifacR6 (o)3 (n)1 T.4 (s)-1.2 (ir)4. (T)(t)0.7 (hr)-1.0n nr ()8f (o)7 (

tree has to be removed to make way for a new building for which full planning permission has been granted. Conditions or information attached to the permission may clarify what work is exempt”.

6.34 The Appellant considers that the loss of the two TPO trees is a loss that would go into the planning balance, but cannot in the Appellant's view come anywhere close to being sufficient to justify refusal of the application having regard to the benefits of the proposal and its conformity with the development plan, when that plan is read as a whole.

6.35

6.41 In terms of reason for refusal 7

7. Proposed Draft Planning Conditions

- 7.1 Should the Appeal be upheld, the Appellant would be prepared to accept all of the conditions suggested by the Planning Officer in Section 10 of the September 2021 Strategic Planning Committee Report. A list of these can be found at **CD10.01**.
- 7.2 The Appellant considers these conditions to be reasonable and relevant to the proposed development and sufficient to ameliorate environmental and amenity effects so that they do not have “unacceptable” impacts. However, a thorough review of the conditions will be carried out in discussion with the Council.

Appendix 1 – Justification for a Public Inquiry

1. Introduction

- 1.1 With reference to Annexe K of The Planning Inspectorate's Procedural Guidance for Planning Appeals England (March 2021), the Appellant requests a Public Inquiry for the reasons set out below.

2. Need for the Evidence to be tested through Formal Questioning by an Advocate

- 2.1 The reason for refusal fails to factor in and give proper consideration to all of the technical work and indeed the responses of statutory consultees. It is noted that none of the statutory consultees or other relevant bodies holding the necessary expertise and experience on the matters under consideration objected to the proposals (and indeed the Committee Minutes (10.0) show that many of these consultees were present at the debate and provided information and support to the Head of Planning and Transport Planning in rebutting the varied and numerous points raised by objectors/councillors).
- 2.2 Furthermore, the reason for refusal fails to factor in the benefits of the appeal proposal and consequently fails to provide a balanced assessment of the
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evidence the planning authority is able to call.

3. Complexity of Issues

3.1 Matters relating to the need and benefits environmental and amenity considerations of the ap (e)-l2e W nal
