



## Appeal Decision

Hearing held on 5 December 2023

Site visit made on 6 December 2023

**by F Wilkinson BSc (Hons), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> January 2024**

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### **Appeal Ref: APP/T1600/W/23/3324695**

#### **Land at Bow Farm, Bow Lane, Ripple**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Moreton Cullimore of M C Cullimore (Gravels) Ltd against the decision of Gloucestershire County Council.
  - The application Ref 19/0081/TWMAJM, dated 11 November 2019, was refused by notice dated 30 January 2023.
  - The development proposed is extraction of sand and gravel with restoration using site derived and imported inert material to wetlands, nature conservation and agriculture.
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#### **Decision**

1. The appeal is allowed and planning permission is granted for a new vehicular access off A38, plus haul road, weighbridge/office, processing plant and equipment (including concrete batching plant), creation of clean water ponds, silt ponds, stock piles and other works and ancillary development associated with the extraction of sand and gravel and import of inert materials with restoration using site derived material to wetlands, nature conservation and agriculture at land at Bow Farm, Bow Lane, Ripple in accordance with the terms of the application, Ref 19/0081/TWMAJM, dated 11 November 2019, subject to the conditions in the attached schedule.

#### **Applications for costs**

2. An application for costs was made by Mr Moreton Cullimore of M C Cullimore (Gravels) Ltd against the Council. This application is the subject of a separate decision.

#### **Preliminary Matters**

3. Notwithstanding the description of development in the heading above which has been taken from the application form, the development is more fully described on the decision notice and appeal form as '*Proposed new vehicular access off A38, plus haul road, weighbridge/office, processing plant and equipment (including concrete batching plant), creation of clean water ponds, silt ponds, stock piles and other works and ancillary development associated with the extraction of sand and gravel and import of inert materials with restoration using site derived material to wetlands, nature conservation and agriculture (cross-boundary application with Worcestershire)*'. The Council determined the application on that basis. I have therefore used that description in my decision.

4. The application was accompanied by an Environmental Statement (ES). This was subject to formal requests by the Council for additional information pursuant to Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). This led to the production of four ES Addendums issued by the appellant in August 2020, March 2021, August 2021 and December 2021 to address the issues raised. A further voluntary ES Addendum was prepared by the appellant in May 2022 to provide an updated cumulative assessment. The ES and ES Addendums addressed noise and dust and air quality as well as other relevant factors. In addition, an Ecological Impact Assessment Addendum (July 2023) has been provided as an appendix to the appellant's appeal statement. This provides an update to the 2018 ecological baseline. Overall, I am satisfied that the ES, as supplemented by the ES Addendums, meets the requirements of Schedule 4 of the EIA Regulations.
5. A new National Planning Policy Framework (the Framework) was published in December 2023. I am satisfied that the changes made to the Framework are not relevant to the appeal. Therefore, the new Framework does not affect the parties' cases and it has not been necessary to seek further comments. References in the decision are to the December 2023 Framework.
6. Prior to the hearing, a Statement of Common Ground (SoCG) was completed between the appellant and Council. The SoCG confirms that the Council agrees that the environmental information has been produced in accordance with accepted standards and methods. The noise and dust monitoring and calculations of noise and dust effects are agreed, subject to appropriate conditions. The SoCG also confirms agreement that subject to appropriate conditions, the water environment, transport and highways, archaeological and cultural heritage, and cumulative effects are not matters of dispute; the proposal would not have an unacceptable impact on biodiversity, geodiversity, or the character and appearance of the local area; and the objectives of the Framework and development plan policy would be met in respect of soils and agricultural land protection. Matters relating to need are agreed.
7. The appellant submitted what was described as a route map to Mr Else's (an interested party) statement at the hearing relating to dust, which the parties were given a further opportunity to comment on. I have taken account of the comments made and the appellant's response.

### **Main Issues**

8. The main issues are:
  - the effect of the proposal on the local economy with regard to dust and noise; and
  - whether the proposal is contrary to the Council's declared climate emergency and the national planning policy objectives for transitioning to a low carbon future.

### **Reasons**

#### *Background*

9. The site as a whole straddles the administrative boundaries of Gloucestershire and Worcestershire. It covers a combined area of 65 hectares (ha), with

55.9ha in Worcestershire and 9.1ha in Gloucestershire. Worcestershire County Council granted planning permission for the part of the site in its administrative boundary on 8 November 2022<sup>1</sup>. The part of the site within Gloucestershire would comprise the mineral processing site, internal haul routes and vehicle access onto the A38. All mineral extraction would be within Worcestershire, other than around 40,000 tonnes of sand and gravel that would be extracted as part of the creation of the silt and clean water ponds. Planning condition 11 of the Worcestershire County Council permission prevents development from commencing until planning permission has been obtained for access to and from the site via the haul road and access onto the A38.

### *Local Economy*

10. Based on the submitted evidence and discussion at the hearing, the main concerns relate to the effects of the proposal on the Hilton Puckrup Hall Hotel and Golf Course (the Hotel) and Church End Nursery. Interested parties also refer to the local tourism industry and businesses that rely on this.

### Noise

11. Worcestershire Regulatory Services advised both the Council and Worcestershire County Council on matters relating to noise. The Council's Officer Report confirms that Worcestershire Regulatory Services considers the submitted noise and vibration impact assessment (NVIA) within the ES and ES Addendums to be satisfactory and that all operational noise levels would be in line with the relevant guidance.
12. Footnote 76 of the Framework identifies that national planning guidance on minerals sets out how minerals planning authorities should ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source. The minerals section of the Planning Practice Guidance<sup>2</sup> (the PPG) sets out noise limits for normal daytime operations and those which may give rise to particularly noisy short-term activities. The PPG also advises on noise limits for the evening and night-time period, but the proposed operating hours would fall outside of those times.
13. As part of the NVIA, background noise levels were established through surveys carried out at fixed positions and spot roaming locations around the site. These surveys were carried out in October 2018 and July 2020, with additional locations being added in 2020 including the Hotel car park. At the hearing, the appellant's noise consultant confirmed that spot checks had been undertaken around the boundary of the Hotel golf course and Far End Cottage which is the dwelling beside Church End Nursery.
14. The results of both surveys demonstrate that the baseline noise environment is dominated by distant and local traffic movements and birdsong. This tallies with what I heard during my site visit, which included two of the bedrooms in the Hotel and its grounds, and Far End Cottage/Church End Nursery.
15. The lowest measured background level at the Hotel was 43dB LA90 (CD2.07). The background noise level at Far End Cottage/Church End Nursery is identified as being somewhere between 44dB to 50dB LA90 (CD2.07). The background

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<sup>1</sup> Reference 19/000048/CM

<sup>2</sup> Paragraph: 021 Reference ID: 27-021-20140306

- noise at the golf course is identified as typically ranging between 50dB to 56dB LAeq (CD3.10).
16. Mr Else, an interested party, considers that the background noise level at these locations is about 34dB LAeq. At the hearing it was confirmed that this figure is not based on any noise monitoring in the area but is the sort of noise level Mr Else considers is typical of a quiet area. My attention has not been drawn to a definition in any guidance of what constitutes a quiet area. However, in my view, the background noise environment identified through the appellant's monitoring would not represent a quiet area in the context of Mr Else's position.
  17. Worcestershire Regulatory Services has not raised a concern with the methodology in the NVIA to establish background noise levels, and I have no clear technical evidence that would justify taking a different view. In my view therefore, the background noise levels established in the NVIA form an appropriate baseline against which to consider the noise impacts from the proposed development.
  18. Based on the assessment of background noise levels, the NVIA set noise limits for the nearest noise sensitive receptors using the PPG minerals guidance for normal, day to day operations. This included the Hotel, which was considered as a high sensitivity receptor, and Far End Cottage/Church End Nursery (CD2.07). Noise modelling was undertaken to establish predicted noise levels from the proposed development. To assess the worst-case scenario, predictions were modelled for periods when plant would be at its closest approach. Noise levels were calculated for the processing plant and for the cumulative effect of extraction and processing plant as well as noise levels at each phase.
  19. It was confirmed at the hearing that ground contours are included within the noise model so the sloping topography between Far End Cottage and the site has been accounted for, as has the gap in the bunds proposed at the north east corner of the plant area. The first ES Addendum (CD2.07) confirms that noise data for the concrete batching plant was included in the processing plant noise prediction model.
  20. The calculated average noise levels from the proposal with the proposed screening in place are all at or below the noise limits established for the noise sensitive receptors. The calculated levels from temporary operations such as overburden stripping and bund formation at the noise sensitive receptors are calculated to be below the noise limit of 70dB LAeq,1h (free field) which also complies with the limit for such activities set out in the PPG.
  21. The range of likely noise from the cumulative effect of mineral extraction and processing plant activities at the Hotel and Far End Cottage/Church End Nursery is calculated as 50-51dB LAeq1hr and 47-49dB LAeq1hr respectively (third ES Addendum, CD4.06). This would represent an increase compared to current background levels for the Hotel but would be within the PPG limits.
  22. The NVIA confirms that the prediction method used was based on that outlined in British Standard BS5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites (BS5228). The plant noise levels used in the NVIA are based on empirical data from the noise consultant's technical library of similar plant under load taken from other sand and gravel sites in the UK rather than the noise levels in BS5228.

23. Concern has been raised by interested parties that the noise emission values used are less than those in BS5228, and so the resulting noise from the proposed development would be greater than that predicted in the NVIA. Mr Else contends that this would be to the extent that the noise limits in the PPG would be exceeded, although this is also based on his contention of the quieter nature of the background noise environment as noted above.
24. Section F.2 of BS5228 sets out that there are three preferred means of obtaining the necessary data to determine the noise level of the noise sources at a site. Method a is to carry out or obtain noise measurements of a similar item of plant, operating in the same mode and at the same power over a representative time period. Method b is to use the sound power levels given in annexes C and D of BS5228. Method c is to obtain the maximum permitted sound power level of the plant under EC Directive 2000/14/EC. BS5228 states that method a as described above is likely to provide the most accurate prediction. The position of Worcestershire Regulatory Services is that, as the noise levels used within the NVIA are actual measured levels as opposed to predicted noise levels based on the BS5228 reference tables, they should be more accurate.
25. Given this context, my view is that the use of empirical data from operational plant is a reasonable approach. I have no compelling reason to doubt that it is not representative of the plant that would be used at the site.
26. Additionally, at the hearing, the appellant's noise consultant explained that their noise model had been run using the plant sound levels provided by Mr Else and the results showed an increase of around 1dB compared to their predicted levels. This is a very small increase, as my understanding is that a 3dB change is generally taken to be the smallest change perceptible to the human ear. Furthermore, it was stated that the resulting noise levels would still be below the PPG limits.
27. Based on the submitted evidence, I have no clear reason to consider that the method used in the NVIA to calculate noise from the proposed development is inappropriate or that its assessment of noise at the receptors improperly underestimates the significance of the noise effects.
28. At the hearing, the appellant's planning consultant confirmed that the processing plant would not be required to establish the initial temporary road that would enable the stripping of soils and the creation of the bunds. The access road that would be used for the duration of extraction and restoration operations would be constructed from processing plant material, but this would be with the bunds in place.
29. It is contended that the NVIA has incorrectly used BS8233:2014 Guidance on sound insulation and noise reduction for buildings when assessing noise levels at the Hotel and golf course. However, I am satisfied that it has been used to illustrate that a noise level of 50 to 55dB(A) is deemed to be acceptable for protecting amenity in residential garden areas, as a comparison for the noise levels from the proposed development.
30. The NVIA also assessed the effects of traffic noise. The predicted change in road traffic noise would be of a neutral to minor level of effect in respect of traffic movements relative to the nearest local road network and at the nearest residential properties.

31. I am satisfied that the appellant's evidence regarding the noise impacts from the proposed development is comprehensive and robust. It predicts that all the calculated site noise levels would comply with the noise limits for normal and temporary operations set out in the PPG, and that there would only be a very limited increase in traffic noise levels. While the evidence presented by the interested parties is well considered and detailed in its content, I am not persuaded that it should lead me to a different conclusion. Consequently, I find that the proposed development, subject to appropriate planning conditions, would not result in unacceptable noise levels for nearby sensitive receptors.
32. Notwithstanding that there are no development plan policies referenced in the Council's reason for refusal on this matter, there would be no conflict with Policies DM01 and DM02 of the 2020 adopted Minerals Plan for Gloucestershire (the MLP), Policy SD14 of the 2017 adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (the Joint CS) or Policy GD6 of the 2018 Twyning Parish Neighbourhood Development Plan 2011-2031 (the NDP). Amongst other matters, these policies require proposals to demonstrate that there would not be unacceptable noise impacts either individually or cumulatively. There would also be no conflict with the objectives of paragraphs 180, 191, 192, and 217 of the Framework relating to noise pollution.

#### Dust and Air Quality

33. Dust particles from minerals sites vary in size. Dispersal of dust in the wider area depends on the size of the dust particle, the wind speed, and disturbance activities. The larger dust particles are generally referred to as disamenity dust and the main potential impact is its ability to cause annoyance or nuisance. The smaller dust particles (less than 10 microns ( $\mu\text{m}$ )) are generally referred to as particulate matter and can potentially cause health effects. The consultation response of the Council's Prevention, Wellbeing and Communities Hub team (the CPWCH) comments that particles smaller than  $10\mu\text{m}$  ( $\text{PM}_{10}$ ) pose the greatest risk because they can be drawn deeper into the lung, and the strongest evidence for effects on health is associated with fine particles, less than  $2.5\mu\text{m}$  ( $\text{PM}_{2.5}$ ). The CPWCH consultation response also notes that currently there is no clear evidence of a safe level of exposure to particulate matter below which there is no risk of adverse health effects.
34. The Institute of Air Quality Management 'Guidance on the Assessment of Mineral Dust Impacts for Planning' (the IAQM Guidance) confirms that the larger dust particles (greater than  $30\mu\text{m}$ ) make up the greatest proportion of dust emitted from minerals workings. The IAQM Guidance also confirms that for most quarries, the particulate matter will be the coarse sub-fraction ( $\text{PM}_{2.5}$  -  $\text{PM}_{10}$ ), rather than in the fine ( $\text{PM}_{2.5}$ ) fraction.
35. The IAQM Guidance states that in the absence of other information, it is commonly accepted that the greatest impacts will be within 100m of a source, and this can include both large (greater than  $30\mu\text{m}$ ) and small dust particles. The greatest potential for high rates of dust deposition and elevated  $\text{PM}_{10}$  concentrations occurs within this distance. Intermediate-sized particles (10 to  $30\mu\text{m}$ ) may travel up to 400m, with occasional elevated levels of dust deposition and  $\text{PM}_{10}$  possible. Particles less than  $10\mu\text{m}$  have the potential to persist beyond 400m but with minimal significance due to dispersion. It states that adverse dust impacts from sand and gravel sites are uncommon beyond 250m.

36. To be consistent with the PPG, the IAQM Guidance advises that PM<sub>10</sub> needs to be assessed if there are sensitive receptors within 1km. For disamenity dust associated with sand and gravel extraction, it advises that a detailed assessment would only be required if there is a receptor within 250m.
37. The ES and ES Addendums include dust and air quality assessments and a dust management plan. Given that there are sensitive receptors within 250m, the assessments considered both disamenity dust and particulate matter. The assessments considered the potential for dust to impact existing nearby properties and land uses through an assessment of the distance and orientation to receptors, prevailing weather conditions, and screening.
38. The Council's Officer Report confirms that Worcestershire Regulatory Services considers the dust and air quality assessments are satisfactory and in line with the relevant policy and guidance, and that the proposed site management measures should minimise dust impacts.
39. However, dust, air quality and health are major concerns for Church End Nursery because of the effect dust deposition may have on its raspberry crop which are grown in several glass houses and polytunnels, and for the Hotel due to guest experiences and impressions, as well as for local residents.
40. Church End Nursery has been considered as a high sensitivity receptor in the appellant's assessments. Although the assessments do not specifically mention the polytunnels, the appellant has confirmed that they were considered. I have no clear evidence to the contrary. The Hotel has been considered as a high sensitivity receptor and the golf course as a medium sensitivity receptor in the appellant's assessments.
41. Although the fruit at Church End Nursery is grown under cover, parts of the glass houses and polytunnels need to be opened at certain times to allow ventilation. Several of the closest polytunnels and glass houses are located such that the parts which would open to allow ventilation would be orientated towards the site. Concern has been raised that dust would be drawn into the structures and would contaminate the fruit. There is also concern that the dust would cover the roofs of the structures, which would reduce light getting to the plants and therefore affect their ability to bear fruit.
42. The appellant's assessments predict a negligible effect at Church End Nursery. This is mainly due to the 'ineffective' pathway effectiveness that has been identified for this receptor. The ineffective pathway effectiveness, which is based on the IAQM Guidance, is a result of the separation distance and the relatively low frequency of potentially dusty winds.
43. The Hotel and parts of the golf course are predicted to experience, as a worst case, up to slight adverse effects from the haul road. All other proposed activities are predicted to have a negligible effect.
44. Subject to the implementation of mitigation measures, which are typical for minerals sites, the appellant's assessments conclude that the overall impact of the proposal is considered to be not significant.
45. The government sets air quality objectives, which are policy-based targets, for the main air pollutants including PM<sub>10</sub> and PM<sub>2.5</sub>, to help address air quality. The

- PPG flow chart<sup>3</sup> sets out that if PM<sub>10</sub> would not be likely to exceed the air quality objective then good practice measures would suffice. The IAQM Guidance advises that where the long-term background PM<sub>10</sub> concentration is less than 17µg/m<sup>3</sup> there is little risk that additional contributions from a mineral site would lead to an exceedance of the annual mean air quality objective. It goes on to advise that if this is the case then no further consideration is required in most cases.
46. The appellant's air quality assessment uses Defra data on levels of annual mean background concentrations of PM<sub>10</sub> for 1km x 1km grid squares across the UK. The average background PM<sub>10</sub> concentration for the grid squares in which the proposed site is located was estimated as 12.75µg/m<sup>3</sup> in 2019<sup>4</sup> and 12.52µg/m<sup>3</sup> in 2021<sup>5</sup>. This is well below the 17µg/m<sup>3</sup> threshold. On this basis, PM<sub>10</sub> levels from the site would not be likely to exceed the relevant air quality objective. Consequently, in accordance with the PPG advice, good practice measures would suffice.
47. The impacts on PM<sub>10</sub> and PM<sub>2.5</sub> from HGV traffic generated by the proposed development were also assessed. The assessment predicts that the concentration change would be very small, resulting in a negligible impact on nearby receptors, and the concentrations would meet the relevant air quality objectives. I am satisfied that the appellant's air quality assessment demonstrates that additional exhaust emissions from HGVs transporting material on the local road network would not materially add to air pollution levels along the proposed routes.
48. The composition of the sand and gravel may contain respirable crystalline silica (RCS). The long-term inhalation of RCS may give rise to silicosis and other serious lung diseases. However, while Mr Else contends that there would be around 75,000 tonnes of material with a particle size of less than 10 microns and this material would be high in silica, there is no substantive evidence of what proportion of RCS may be emitted by the proposed development or how likely the processing of the minerals would generate RCS emissions.
49. Interested parties have raised it as a concern for the employees of Church End Nursery as well as local residents, who it is identified would not be using the safety equipment and procedures recommended for quarry employees. However, there is no guidance that requires such protection for local residents or employees, only for those workers at sites who are in very close proximity to the source.
50. There is no UK ambient air quality standard for RCS nor is there any recommended methodology for the assessment for potential RCS emissions. The CPWCH consultation response<sup>6</sup> identifies that the Health and Safety Executive position is *'No cases of silicosis have been documented among members of the general public in Great Britain, indicating that environmental exposures to silica dust are not sufficiently high to cause this occupational disease'*.
51. I am also mindful that the UK Health Security Agency has no significant concerns regarding the risk to health of the local population from the proposed

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<sup>3</sup> Paragraph: 032 Reference ID: 27-032-20140306

<sup>4</sup> Table 3.2 in CD1.09

<sup>5</sup> Table 3.3 in CD2.04

<sup>6</sup> Dated 1 April 2022



development, provided that all appropriate measures are taken to prevent or control pollution in accordance with the relevant sector technical guidance or industry best practice. The CPWCH also raises no objections to the proposal subject to the identified mitigation measures.

52. The use of the dust suppression measures outlined in the appellant's Dust Management Plan<sup>7</sup> would help to reduce the risk of particulate emissions from the site, including any potential RCS emissions, as they would provide mitigation for both larger and smaller particles. I appreciate that the monitoring regime set out in this Dust Management Plan is focussed on visual means, which would not pick up on these smaller particles nor would it be in place when the site is not operational. However, the appellant would also undertake continuous dust monitoring using equipment that measures real-time concentrations of PM<sub>10</sub> and PM<sub>2.5</sub> and which can send email alerts when an agreed threshold is breached. The appellant also proposes to undertake monitoring for RCS. The monitoring regime, including thresholds and actions to be taken if breached, could be secured by a condition.
53. The appellant's identified residual source emissions from the various site operations are generally less than the potential for dust emissions identified in the Mineral Products Association's publication on quarries and dust. However, the appellant's classification includes mitigation measures while it is not clear whether this is taken into account in the Mineral Products Association's description of effects. The appellant's dust assessment identifies a generally greater risk before mitigation measures are applied. I am content that the appellant's dust assessment is consistent with the IAQM Guidance, which recognises that the determination of residual source emissions relies on a degree of professional judgement.
54. Mr Else's submission states that some 50% of the time dry wind would be blowing that would bring harmful effects to Church End Nursery and 54% of the time to the Hotel and golf course. The appellant's assessments identify that the occurrence of potentially dusty winds towards Church End Nursery would be classed as 'infrequent' using the IAQM Guidance categorisation. From the submitted evidence and the discussion at the hearing, the difference in figures is mainly because Mr Else considered all wind speeds while the appellant considered those above 5m/s. There are also differences in the wind direction considered. In my experience, the use of winds greater than 5m/s is a common threshold. The IAQM Guidance uses winds of greater than 5m/s for its categorisation of frequency of potentially dusty winds.
55. There is a dispute about attenuation that would be provided for Church End Nursery from the bunds and topography. Notwithstanding this, I am satisfied that adequate controls could be put in place to adequately mitigate effects.
56. The property at Fairfield lies to the north of the site where there are different wind speeds and frequencies. It is not therefore directly comparable to Church End Nursery.
57. I appreciate the concern that one bad dust event could spoil a raspberry crop and therefore why questions have been raised about the use of the annual mean objective to assess effects. The appellant's dust consultant explained that if the annual mean is not breached then the 24-hour mean is rarely breached.

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<sup>7</sup> CD5.06

The IAQM Guidance notes that there may be a number of days per year with particularly intense operations which increase the number of days with a concentration greater than 50µg/m<sup>3</sup> (the 24-hour mean objective) but do not have a significant impact on annual mean concentrations. However, it goes on to state that there is a lack of evidence on short term contributions and recommends that the focus in assessments should be on the annual mean objective. Given the lack of compelling evidence to the contrary, I am satisfied about the use of the annual mean objective to assess effects.

58. Other local businesses identified by interested parties are further from the site than the Hotel and Church End Nursery and other sensitive receptors identified in the appellant's assessments. In my view therefore, dust/air quality impacts would be unlikely to be any greater.
59. Although not forming part of the Council's reasons for refusal, concerns have been expressed by local residents about the effects of dust on their living conditions. The appellant's assessments identify that a number of residential properties would experience some dust effects from the mineral extraction area. However, I am mindful that Worcestershire County Council has granted permission for the mineral extraction. The only property identified as likely to experience anything more than a slight effect from the plant site and processing area and haul road is Fairfield, which is stated as being within the appellant's control. Due to the separation distances, I am satisfied that the dust impacts on these other residential receptors arising from the plant site and processing area and haul road would not be significant.
60. As with noise, the submissions made by the interested parties have been wide ranging in their coverage of the issues and have helped to ensure that the appellant's dust and air quality assessments have addressed the relevant matters. However, I am persuaded by the appellant's technical evidence that the proposal would not result in an unacceptable effect on nearby sensitive land uses with regard to dust and air quality, subject to the embedded mitigation measures, the operational measures detailed in the Dust Management Plan and the suggested planning conditions. Moreover, in my judgement, there is no compelling evidence before me that clearly demonstrates that the proposed development would pose a significant risk to public health.
61. Consequently, there would be no conflict with Policies DM01 and DM02 of the MLP, Policy SD14 of the Joint CS, or Policy GD6 of the NDP. Amongst other matters, these policies require proposals to demonstrate that there would not be unacceptable air pollution either individually or cumulatively. There would also be no conflict with the objectives of paragraphs 180, 191, 192, and 217 of the Framework relating to air pollution.

#### Conclusions on the Local Economy

62. The proposal would provide 20 full time jobs. This would be a modest, but beneficial effect for the local economy. There would also be indirect employment created through the multiplier effect. This includes support to the construction industry through the supply of aggregate materials.
63. From the submitted evidence, a number of local businesses rely in part or completely on tourist trade. These provide accommodation, recreation, goods and services to visitors to the area. Interested parties argue that the impact on

the local economy would be greater than the jobs that would be created by the proposal.

64. I can appreciate that reputation is an important factor for the Hotel. Mr Donmez, the Hotel manager, explained that most guests come for the Hotel's countryside setting. Most bookings are from April to September, typically when guests can use the outside facilities and may have windows open. The Hotel also has corporate guests and is a wedding venue. He highlighted the importance of cleanliness, the importance of repeat business which is based on the experience of guests, and the power that social media has in terms of guest reviews and referrals. The submissions of Mr Donmez and other interested parties set out the direct employment at the Hotel and the local business infrastructure which it is contended is supported by the Hotel, which is not insubstantial.
65. I appreciate the concern that noise and dust from the site may make the Hotel a less attractive destination to stay and so would adversely affect bookings and therefore revenue for the Hotel but also for other local businesses which rely at least partly on trade from its guests.
66. Information has been provided by several interested parties which has sought to categorise the economic impacts. However, no conclusive evidence has been presented to allow a reasonable judgement to be made about the effect of the proposal on the existing local economy. While Mr Donmez gave an example of another Hilton hotel that experienced a loss of business when a nearby site was under construction, this involved a different situation to the appeal scheme and so is not directly comparable to the proposal that is before me.
67. As set out above, I am satisfied that the site could be operated within accepted standards for noise and dust, subject to appropriate mitigation measures. In addition, the Council highlighted that the local enterprise partnership, which represents the business community, was consulted on the proposal and raised no concerns. Accordingly, it appears to me that the concerns stem principally from a perception of harm. The perception of harm to the local economy can be a material planning consideration.
68. While it has been demonstrated that noise would be within acceptable levels, the site may nevertheless be audible at times. As a worst case, the Hotel and parts of the golf course could experience slight adverse dust effects from the access road, which would not be significant. The location of the Hotel in relation to the site might be sufficient to discourage some guests. If it is perceived that the proposed development would be problematic for guests, that could have some negative impact on the Hotel and local businesses which rely on the guests' custom. A similar point could be made about other visitor destinations identified by interested parties in the immediate vicinity.
69. Nevertheless, there is a lack of objective evidence that would support the concerns raised about the effects of noise and dust on the Hotel. I therefore afford only slight weight to the perceived harm to the local economy.
70. The concern for Church End Nursery is the potential for dust to contaminate the raspberry crops. However, there is no compelling evidence before me to suggest that there would be a detrimental effect on the Church End Nursery, subject to strict controls and effective monitoring, which can be secured through conditions.

### *Low Carbon Future*

71. There are no adopted policies in the development plan for the area that expressly require a carbon audit or carbon offset plan. However, Gloucestershire County Council has declared a climate emergency and there is a local ambition to be a net zero carbon county and to achieve a reduction in carbon emissions of 80% by 2030. In addition, paragraph 157 of the Framework 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.
72. Based on the submitted evidence, the site would be the closest sand and gravel quarry to the settlements of Tewkesbury, Gloucester and Cheltenham, which are identified for a substantial amount of housing and employment growth in the relevant development plan policies, with the associated requirement for aggregate minerals. If the site was permitted, it would provide a source of material well placed in terms of both distance and proximity to the strategic road network to serve these areas. This would have the potential to reduce the distance that material would need to be transported to these markets compared to the currently permitted reserves, and so there would be possible savings in transport emissions.
73. The appellant highlights that the company is accredited ISO 14001:2015 Environmental Management System (ISO 14001). ISO 14001 is a systematic framework to manage the immediate and long-term environmental impacts of an organisation's products, services, and processes. In addition, the appellant states that around 90% of all HGV movements to/from the site would be carried out by their own fleet of vehicles. The appellant identifies that their fleet of diesel vehicles meets Euro VI standard, meaning they meet the highest standards in respect of minimising emissions.
74. The alternatives considered in the ES included consideration of the use of a river wharf and barge to transport the material rather than road transport in HGVs. This was discounted for several reasons, notably that the appellant has a lack of access to facilities and land that would allow for the relevant access. Based on the evidence before me, I am satisfied that there would be no realistic possibility of the use of wharf and river transport.
75. The proposed restoration scheme for the site as a whole incorporates around 28ha of land for habitat creation and biodiversity gain. This has the potential to offset some of the carbon emissions associated with the proposal although without more detail I cannot reasonably conclude the extent to which carbon emissions would be offset by this.
76. Some interested parties refer to the proposed concrete batching plant and the high levels of carbon that is associated with the use of concrete. In this context, the appeal decision<sup>8</sup> for the redevelopment of the Marks and Spencer building in London has been referenced. In that case, both the Inspector and Secretary of State gave weight to what was then paragraph 152 of the Framework (now paragraph 157) and found that the proposal would impede the UK's transition to a zero-carbon economy due mainly to the redevelopment rather than refurbishment proposed and the amount of carbon that would go into its construction. However, that proposal related to a very different

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<sup>8</sup> Appeal reference APP/X5990/V/3301508

development to this current appeal scheme, which relates to the provision of aggregate material and not its use.

77. There are factors which weigh both positively and negatively in favour of the proposal. The proposed development would undoubtedly result in some carbon emissions, as minerals operations and many other developments do. However, the Framework does not include any policy about restricting the supply of aggregate minerals on climate change grounds. In fact, paragraph 215 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 and that mineral planning authorities should plan for a steady and adequate supply of aggregates. There would be no reasonable alternative to road transport. However, the submitted evidence indicates that the majority of HGVs to/from the site would meet the highest standards in respect of minimising emissions, and the site would be well placed to serve local markets. There would also be a biodiversity net gain and flood risk betterment which would support the objectives of paragraph 157 where it states that the planning system should help to minimise vulnerability and improve resilience.
78. Given the context outlined above, I am not persuaded that the proposed development would have a material impact on the Council's declared climate emergency or the national planning policy objectives for transitioning to a low carbon future. Consequently, I conclude that there would be no conflict with paragraph 157 of the Framework or the Council's declared climate emergency.
79. Although not specifically referred to in the reason for refusal relating to this main issue, the proposal would accord with Policy DM03 of the MLP, Policy SD3 of the Joint CS and Policy GD3 of the NDP. Policy DM03 supports proposals that minimise the miles travelled by minerals, demonstrate how road-based transport will be kept to a minimum, and wherever possible use alternative and more sustainable, modes of non-road transport along with fuel efficient and/or low, ultra-low or zero greenhouse gas emitting haulage vehicles. Policy SD3 expects all development to be adaptable to climate change. Policy GD3 requires development to take every opportunity to incorporate features that improve its environmental performance thereby reducing carbon emissions.

## **Other Matters**

### *Effect on the Severn Estuary*

80. The Severn Estuary is designated as a Special Area of Conservation (SAC) in part for its subtidal sandbanks, biogenic reefs, intertidal mudflats, sandflats and saltmarsh, and the populations of waterbirds, plants and fish that it supports. It is also designated as a Special Protection Area (SPA) due to the populations of over-wintering and passage wild birds, and as a Ramsar Site because of its intertidal habitats and the communities of birds, fish and plants that this supports.
81. The site could provide functionally-linked supporting habitat for qualifying species of birds and migratory fish. Consequently, when considered in combination with other developments in the area, there would be a likely significant effect on the qualifying features of the SAC, SPA and Ramsar Site from the proposal. Therefore, as the competent authority, it is necessary for me to undertake an Appropriate Assessment (AA).

82. Considering the conservation objectives, there may be adverse effects on the integrity of the SAC, SPA and Ramsar Site from the proposal due to factors such as the interruption of groundwater, discharges into the water environment, dust, and the effects of noise on migratory fish. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts.
83. I have had regard to the relevant information in the ES and ES Addendums. I am also mindful that the AA prepared for Worcestershire County Council concludes that the proposal would not result in adverse effects on the integrity of any of the sites in question. Moreover, through its consultation response on the application, Natural England confirms that it has no objections to the proposal in terms of potential impacts upon the SAC, SPA and Ramsar Site, subject to conditions securing the identified mitigation measures. No change has been proposed to the scheme since then and the 2023 Ecological Impact Assessment Addendum identifies that the mix of habitat types found within the application site has not changed significantly from the original 2018 baseline survey.
84. Overall, I am satisfied that the proposed mitigation measures would adequately mitigate the effects of the proposed development such that it would not have an adverse effect on the integrity of the SAC, SPA or Ramsar Site either alone or in combination with other plans and projects. Moreover, I am satisfied that the mitigation could be secured through suitably worded planning conditions.

#### *Heritage*

85. The effect on heritage assets does not form part of the Council's reasons for refusal. However, the duties imposed through the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to consider the effect of the proposal on certain heritage assets.
86. I have had regard to the assessments in the ES and ES Addendums, the relevant consultation responses including Historic England, and the views of the Council. Without other clear evidence to the contrary, I agree that there would be less than substantial harm to the significance of Towbury Hill Camp Scheduled Monument; a number of Grade II listed buildings, and Ripple and Uckinghall Conservation Areas, mainly arising from the albeit temporary disruption to their landscape setting. In such circumstances, paragraph 208 of the Framework states that the harm should be weighed against the public benefits of the proposal. I return to this in the overall planning balance.

#### *Ecology*

87. There is no evidence before me to suggest there would be an unacceptable effect on protected species or other habitats and species.

#### *Flood Risk*

88. The processing plant would be located within Flood Zone 1, which is at low probability of flooding. The application was supported by a Flood Risk Assessment which concludes that subject to mitigation measures there would be no unacceptable flood risk. There are no objections from the Environment Agency or the Local Lead Flood Authority, subject to conditions. The proposal would therefore be compatible with the Framework's objectives regarding flood risk.

### *Highways*

89. There are no technical objections to the proposed access, the capacity of the highway network to accommodate the proposed volume of traffic, highway safety, or to the effect on the use of the Public Right of Way that crosses the proposed internal haul road between the processing and extraction areas, subject to conditions. Notwithstanding the concerns about the effects on the highway network, it is not a determinative issue for the Council and in the absence of compelling evidence to the contrary, I have no reason to conclude that the proposal would be unacceptable in respect of highways matters.

### *Pipelines*

90. I note the concerns about the potential effect of the proposal on the two oil pipelines that run north to south through the site. However, the organisations with responsibility for the pipelines have not objected to the proposal. Safeguarding measures are proposed. As I have no clear evidence to the contrary, I find that there would be no harm caused to the pipelines.

### *Consultation*

91. Interested parties have expressed concern about the lack of consultation with the local community, including residents and businesses. However, in determining this appeal, I am only able to have regard to the planning merits of the case.

### **Planning Balance**

92. The amount of minerals that would be extracted from within Gloucestershire would be small. Nevertheless, the proposed development would facilitate the extraction of around 1.4 million tonnes of sand and gravel from within Worcestershire. The evidence before me indicates that Worcestershire's landbank is below seven years, while Gloucestershire's is just over seven years. The minerals that would be extracted from the site overall would add around 1.69 years to Worcestershire's landbank. The appeal proposal would therefore facilitate a not inconsiderable contribution to the supply of minerals. In line with paragraph 217 of the Framework, I give this great weight in favour of the proposed development.

93. The economic benefits of the proposal, including the provision of 20 full time jobs, would make a modest contribution to the local economy. I afford this commensurate weight.

94. I accept that there could be some perception of harm to the local economy. However, it has been demonstrated that the proposed development would be able to operate within the required standards for noise and dust. As such, the proposal would not result in unacceptable levels of air or noise pollution or have unacceptable impacts for neighbouring occupants or the local community, as required by Policies DM01 and DM02 of the MLP, SD14 of the Joint CS and GD6 of the NDP. Accordingly, I attribute the perception of harm to the local economy slight weight.

95. I do not consider that the proposal would materially affect the Council's declared climate emergency or the national planning policy objectives for transitioning to a low carbon future. As I have found no material harm, overall, I regard this matter to be neutral in the planning balance.

96. I have found that there would be less than substantial harm to the significance of several designated heritage assets. I have taken account of the duties imposed by the Act, and I give great weight to the assets' conservation. However, in my judgement, the public benefits of the proposed development identified above would outweigh the less than substantial harm that would be caused to the designated heritage assets.
97. I have not found harm with regard to the other matters identified. A lack of harm is effectively neutral in the planning balance.
98. Despite the harms identified and taking account of all other considerations, I conclude that the balance falls in favour of the grant of planning permission.

### **Conditions**

99. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework, and have amended the wording of certain conditions in that light (without altering their fundamental aims). I have not imposed the Council's suggested condition requiring an annual topographical survey. The nature of the operations within Gloucestershire would not alter the topography of the site once operational in the way that mineral extraction within Worcestershire would. In my view, the condition is therefore unnecessary. I have also combined some conditions to avoid repetition.
100. Several conditions are required prior to commencement of development to ensure that the relevant details are acceptable and compliance with their requirements at a later time could result in unacceptable harm. These are identified below.
101. For certainty, conditions setting out the timescales for commencement and completion of operations; to ensure that the development is carried out in accordance with the approved plans; and to define the scope of the permission regarding its relationship with the permission granted by Worcestershire County Council and waste acceptance are necessary.
102. A set of conditions to address highway safety is necessary: restricting the site access to that shown on the approved plans; timing of constructing the access; visibility splays (pre-commencement); provision of vehicle parking and turning areas; highways condition surveys; vehicle numbers; wheel washing and sheeting of vehicles; maintenance of the haul road; and the prevention of direct sales from the site. To encourage sustainable travel, conditions are necessary to make provision for electric vehicle charging and bicycle storage.
103. To protect the amenity of local communities, several conditions are necessary. These cover: hours of working; the use of white noise reversing warning devices; noise and vibration monitoring; noise limits for normal and noisier operations; an independent assessment of noise impacts and if necessary the submission of a mitigation scheme; the construction of the screening bunds prior to mineral processing taking place; the maintenance of vehicles, plant and machinery; compliance with the dust management plan and other measures to suppress dust emissions; a scheme for dust monitoring; restricting the height of stockpiled material; removal of certain permitted development rights; prohibiting the processing of imported waste and the burning of materials; a scheme for community liaison (pre-commencement);



and availability at the site of the conditions and approved plans and documents.

104. To protect the amenity of local communities and biodiversity, it is necessary to secure details of any lighting required and the implementation of tree protection measures.
105. In the interests of biodiversity, conditions are necessary to secure a biodiversity mitigation scheme (pre-commencement) and to safeguard migratory fish. In the interests of biodiversity and the character and appearance of the area, a condition is necessary to secure an updated landscape and ecological management plan (pre-commencement).
106. In the interests of the character and appearance of the area, conditions are necessary to require details of boundary treatments and the painting of the processing plant, concrete batching plant and buildings dark green.
107. To protect the water environment, several conditions are necessary: a scheme for the monitoring of ground and surface water features (pre-commencement) and a remediation scheme if necessary; design of the surface water drainage (pre-commencement); the submission of a sustainable drainage system management plan; the prevention of discharge of foul or contaminated drainage, trade effluent, and vehicle washdown water; requirements for the storage of oils, fuels and chemicals and the repair, maintenance and fuelling of vehicles; and the design of the bridges.
108. To make provision for the investigation and recording of any archaeological remains, a condition is necessary to require a programme of archaeological work (pre-commencement). To minimise the risk of crime, a condition is necessary to secure details of any CCTV to be installed. A condition is necessary to require the operator to maintain records of minerals exported and waste imported for monitoring purposes, in the interests of safeguarding amenity and highway safety. A condition is necessary to require an interpretation strategy and its implementation in the interests of cultural heritage, landscape, biodiversity, and geodiversity interests.
109. To secure the restoration and aftercare of the site, conditions are necessary to ensure the proper handling and storage of soil; to secure the implementation of the restoration proposals and the submission of an annual report; to secure a revised restoration plan should mineral extraction cease; to ensure that differential settlement can be addressed; to require a 10 year aftercare period; and to secure an updated outline aftercare scheme (pre-commencement).

## **Conclusion**

110. In view of my findings, the proposed development does not conflict with the development plan when read as a whole. For the above reasons, based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*F Wilkinson*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby approved must begin no later than the expiration of 3 years beginning with the date of this permission.

### Prior Notification

- 2) The operator shall ensure that notification of the date of commencement of the development hereby permitted shall be given in writing to the Mineral Planning Authority at least 14 days prior to:
  - i. the commencement of works to create the site entrance;
  - ii. the commencement of soil stripping operations;
  - iii. the commencement of mineral extraction;
  - iv. the commencement of operation of processing plant;
  - v. the commencement of operation of concrete batching plant; and
  - vi. the completion of soil replacement operations.

### Time Limits

- 3) All mineral processing and associated operations shall cease, and all the processing plant will be cleared, and the site shall be restored in accordance with the approved restoration scheme as required by Condition 54 of this permission within 9 years of commencement of the development hereby approved. Should operations within the processing plant site cease before this date, the Mineral Planning Authority shall be notified in writing within 1 month of such activities ceasing.

### Scope of the Permission

- 4) The development hereby permitted shall be carried out and completed in accordance with the particulars of the development, plans, specifications, working programmes or other details contained in the application except as modified by conditions attached to this permission. The approved plans and documentation comprise:
  - 2636-4-4-3-Fig.2-S4-P6, titled: 'Existing Conditions';
  - 2636-4-4-2-1-DR-0002-S4-P9, titled: 'Initial Works and Phase 1 Extraction';
  - 2636-4-4-2-1-DR-0003-S4-P8, titled: 'Phases 3 and 4 Extraction';
  - 2636-4-4-2-1-DR-0004-S4-P8, titled: 'Phases 5 and 6 Extraction';
  - 2636-4-4-2-1-DR-0005-S4-P8, titled: 'Phases 7,8 and B Extraction';
  - 2636-4-4-2-1-DR-0006-S4-P9, titled: 'Phase 9 Extraction';
  - 2636-4-4-2-1-DR-0007-S4-P9, titled: 'Proposed Restoration';
  - 2636-4-4-2-1-DR-0008-S4-P2, titled: 'Overburden Depth Isopachyte';
  - 2636-4-4-2-1-DR-0009-S4-P2, titled: 'Mineral Depth Isopachyte';
  - 2636-4-4-2-1-DR-0010-S4-P1, titled: 'Bridge Detail';
  - 2636-4-4-2-DR-0011-S4-P1, titled: 'Site Location';
  - 2636-4-4-2-1-DR-0012-S4-P2, titled: 'Borehole Location Plan';
  - 2636-4-4-2-1-DR-0013-S4-P4, titled: 'Proposed Plant Site Cross Sections';
  - 2636-4-4-2-2-DR-0014-P3, titled: 'Cross Section – Interceptor Ditch';
  - 2636-4-4-2-1-DR-0015-P5, titled: 'Plant Site Details';
  - 2636-4-4-2-1-DR-0016-P3, titled: 'Plant Site Elevations';
  - 2636-4-4-2-1-DR-0017-P2, titled: 'Proposed Pipeline Crossing';
  - 2636-4-4-2-1-DR-0018-P2, titled: 'Proposed Bridleway Crossing Detail';

- 2636-4-4-2-1-DR-0019-P2, titled: 'Bridleway, Common Land and Haul Route';
- 2636-4-4-2-1-DR-0020-P1, titled: 'Common Land Designation';
- 2636-4-4-2-1-DR-0021-S4-P3, titled: 'Tree Protection Plan';
- 2636-4-4-2-1-DR-0022-P1, titled: 'GCC Cross Sections';
- 2636-4-4-2-1-DR-0023-P1, titled: 'Towbury Hillfort SAM Sections'; and
- 2636-4-4-2-1-DR-0024-P1, titled: 'Flexible Working Area A Restoration Cross Section'.

5) The development hereby permitted is to be used solely in conjunction with and ancillary to the mineral working operations permitted by Worcestershire County Council under its planning application reference 19/000048/CM.

#### Waste Acceptance

- 6) No waste materials other than those defined in the application or stipulated by conditions(s) attached to this permission shall be imported to the site.
- 7) Inert waste material that is imported for the purpose of infilling and restoration purposes shall consist of uncontaminated or treated sub-soils and construction, demolition and excavation waste such as but not limited to: concrete, bricks, tiles, and ceramics that will not undergo any physical, chemical or biological transformations of significance and will not give rise to environmental pollution or risk harm to human health as a result of coming into contact with other matter.

#### Hours of Working

- 8) Except in emergencies, all operations and uses on the site including the running of any plant or machinery, shall only take place between 07:00 to 18:00 hours Mondays to Fridays, inclusive, and 07:00 to 13:00 hours on Saturdays, with no operations on the site at any time on Sundays, Bank or Public Holidays. The Mineral Planning Authority shall be informed in writing within 48 hours of an emergency occurrence that would cause working outside the stipulated hours.

#### Highways

- 9) Access to and from the site shall only be gained via the haul road and access onto the A38 as shown on approved plan 2636-4-4-2-1-DR-0002-S4-P9, titled: 'Initial Works and Phase 1 Extraction'.
- 10) No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists has been constructed and completed in accordance with the approved plan 2636-4-4-2-1-DR-0002-S4-P9, titled: 'Initial Works and Phase 1 Extraction'.
- 11) No part of the processing plant area shall be brought into use until bicycle storage facilities for a minimum of 4 no. bicycles have been made available for use and those facilities shall be maintained for the duration of the development.
- 12) Prior to the commencement of the development hereby permitted, visibility splays shall be provided from a point 0.6 metres above carriageway level at the centre of the access to the site and 2.4 metres back from the near side edge of

the adjoining carriageway, (measured perpendicularly), for a distance of 144 metres to the south and 155 metres to the north measured along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of the land so formed which would obstruct the visibility described above.

- 13) No part of the processing plant area shall be brought into use until a minimum of 2 no. electric vehicle charging ports have been provided in accordance with details to be submitted to and approved in writing by the Mineral Planning Authority and thereafter such ports shall be kept available and maintained for the use of electric vehicles as approved.
- 14) The buildings hereby permitted shall not be occupied until the vehicular parking, turning and loading/unloading facilities have been provided in accordance with the approved plans and those facilities shall be maintained available for those purposes thereafter.
- 15) Prior to any material derived within the site edged red on plan 2636-4-4-2-DR-0011-S4-P1, titled: 'Site Location' leaving the site, a Highway Condition Survey shall be submitted to the Mineral Planning Authority. Such a survey shall be carried out in accordance with a methodology that has been approved in writing by the Mineral Planning Authority. The methodology shall include provision for a further Highway Condition Survey to be carried out on an annual basis for the duration of the development hereby permitted. A copy of the content of all Highway Condition Surveys undertaken in connection with the requirements of this condition shall be held on site for the duration of the development hereby approved.
- 16) The output of mineral from the site shall not exceed a maximum of 250,000 tonnes or 52,560 two-way HGV trips (26,280 HGV movements entering and 26,280 HGV movements exiting the site) in any consecutive 12-month period. The operator shall maintain daily records (to include date, time and vehicle livery/registration) of the HGV movements entering and exiting the site and shall supply such records to the Mineral Planning Authority upon request. These records shall be kept for a minimum period of 24 months.
- 17) No HGVs exiting the site shall enter the public highway unless the wheels and chassis of those vehicles have been cleaned, in order to prevent the deposition of materials on the public highway.
- 18) No loaded vehicles shall enter or leave the site unsheeted.
- 19) All mobile plant and machinery used on the site shall incorporate white noise reversing warning devices or any such audible warning system replacing them which meets the industry standard.
- 20) The haul route shall be maintained such that its surface remains in a good condition free of potholes or other defects.

#### Boundary Treatments

- 21) Details of any new fences, walls and other means of enclosure shall be submitted to and approved in writing by the Mineral Planning Authority prior to

being erected. Thereafter the development shall be carried out in accordance with the approved details.

#### Visual Amenity

22) Prior to the site being brought into use, the processing plant, concrete batching plant (including silos), weighbridge office and welfare office shall have an external colour finish of dark green (RAL 6002), and shall be maintained as such for the duration of the development.

#### CCTV

23) Details and locations of any Closed-Circuit Television (CCTV) to be installed at the site shall be submitted to the Mineral Planning Authority for approval in writing prior to being erected. Thereafter, the development shall be carried out in accordance with the approved details.

#### Water Environment

24) Prior to the commencement of the development hereby permitted, a scheme to monitor ground and surface water features (including but not limited to springs, boreholes, and wells) in Gloucestershire, shall be submitted to and approved in writing by the Mineral Planning Authority, having regard to the approved 'Water Environment and Flood Risk' section of the Environmental Statement, Revision P2, dated 31 October 2019, and section 12: 'Water Environment' of the Environmental Statement Regulation 25 Addendum, Revision P2, dated 7 August 2020, and 'Bow Farm Sand and Gravel Quarry Development Hydrogeological and Hydrological Impact Assessment and Flood Risk Assessment undertaken by GWP Consultants, Report Ref: 190714, Version v.02, dated 27 August 2019. The scheme shall include: frequency and location of monitoring boreholes; method and nature of sampling. Thereafter, monitoring shall be carried out and reviewed in accordance with the approved scheme.

25) If the monitoring scheme approved under Condition 24 of this permission shows any adverse risk of deterioration to the water features or characteristics, then extraction shall cease immediately until proposals to investigate the cause of deterioration; to remediate any such risks; and to monitor and amend any failures of the remediation undertaken, have been submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

26) Notwithstanding the submitted details, prior to the commencement of the development hereby permitted, detailed design drawings for surface water drainage 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.

27) No works in connection with site drainage shall commence until a Sustainable Drainage Systems (SuDS) Management Plan, which shall include details on future management responsibilities, together with maintenance schedules for all SuDS features and associated pipework, has been submitted to and approved in writing by the Mineral Planning Authority. The Management Plan

shall also detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. Thereafter the development shall be carried out in accordance with the approved SuDS Management Plan.

- 28) 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.
- 29) 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, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses shall 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 or vessel overflow pipe outlets shall be detailed to discharge downwards into the bund.
- 30) Repair, maintenance and fuelling of vehicles, plant and machinery shall only take place on an impervious surface drained to a sealed interceptor and the contents of the interceptor shall be removed from the site.
- 31) Notwithstanding the submitted details, prior to the construction of the bridges, as shown on approved plan 2636-4-4-2-1-DR-0002-S4-P9, titled: 'Initial Works and Phase 1 Extraction', the detailed design of the bridges, including surfacing details, materials, colour and finishes 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.

#### Lighting

- 32) Prior to the installation of any new or replacement external lighting details shall be submitted to and approved in writing by the Mineral Planning Authority. The submission shall be based on paragraph 7.5 of the Ecological Impact Assessment and include the following details:
- the position, height and type of all lighting;
  - the predicted intensity and spread of light;
  - the lighting proposed must create no significant increase in illumination on habitats and features that are used by bats;
  - the expected times throughout the year when such lighting will be used and controlled.
- The approved external lighting shall be implemented and maintained in accordance with the approved details for the duration of the development.

#### Noise and Vibration

- 33) Notwithstanding the submitted details, no soil stripping operations shall take place until a Noise and Vibration Management Plan has been submitted to and approved in writing by the Mineral Planning Authority. This shall include a scheme for noise and vibration monitoring, including method, nature, frequency, duration and locations of monitoring, trigger levels and contingency

and mitigation proposals should a trigger level be breached. Thereafter, the development shall be carried out in accordance with the approved details.

34) The noise attributable to the development within Gloucestershire that is hereby permitted shall not exceed the levels set out below at the receptor locations identified in approved Appendix 5: 'Noise and Vibration Response and Noise Management Plan – NVC Ltd', dated July 2020 of the 'Environmental Statement – Regulation 25 Addendum', Revision P2, dated August 2020, as updated by Appendix 5: 'Noise Response', dated May 2021 of the 'Environmental Statement – Regulation 25 Addendum', Revision P2, dated August 2021, when measured in terms of an LAeq 1-hour level (free field), as measured at a point closest to the noise source with the microphone at a height of 1.2 metres above ground level:

- Silvermead (North): LAeq, 1-hour 55dB;
- Bow Farm: LAeq, 1-hour 54dB;
- Puck Cottage, Bow Cottage, Bowfields, Threshing Bow, The Bow (East): LAeq, 1-hour 54dB;
- Bowbridge Cottage, Scarecrow Stables, Dadsley Cottage (East): LAeq, 1-hour 54dB
- Puckrup Lane (Puckrup Hall): LAeq, 1-hour 53dB;
- Fairfield Bungalow: LAeq, 1-hour 55dB;
- Twyning Farms and Owls End (South-East): LAeq, 1-hour 54dB;
- Redpools Farm (South): LAeq, 1-hour 55dB;
- Windmill Tump and Bushley Green (South-West): LAeq, 1-hour 53dB;
- The Stall, Bredon School, and Church End Farm (West): LAeq, 1-hour 54dB;
- Far End / Church End Nursery: LAeq, 1-hour 55dB.

35) During the removal of soils and superficial deposits and the creation of any screen bunds or restoration works, the noise limit at the receptor locations identified in approved Appendix 5: 'Noise and Vibration Response and Noise Management Plan – NVC Ltd', dated July 2020 of the 'Environmental Statement – Regulation 25 Addendum', Revision P2, dated August 2020, as updated by Appendix 5: 'Noise Response', dated May 2021 of the 'Environmental Statement – Regulation 25 Addendum', Revision P2, dated August 2021, shall not exceed 70dB LAeq 1-hour (free field), as measured at a point closest to the noise source with the microphone at a height of 1.2 metres above ground level. Such temporary operations shall not exceed a total of 8 weeks duration at any of the identified receptor locations in any continuous 12-month period. Prior written notice of at least 5 working days, being Mondays to Fridays inclusive, shall be given to the Mineral Planning Authority of the commencement and the duration of such operations.

36) Upon written request from the Mineral Planning Authority, the operator shall, at its expense, employ an independent qualified acoustic consultant to assess the noise impact from the development hereby permitted upon the nearest sensitive properties. The scope, methodology and timescales for delivery of the noise assessment shall be submitted to the Mineral Planning Authority within 21 days of such a request. The noise assessment shall not begin until the scope, methodology and timescales for delivery of the noise assessment has been approved in writing by the Mineral Planning Authority. Thereafter, the noise assessment shall be completed in accordance with the approved scope and methodology and shall be presented to the Mineral Planning Authority within the approved timescales for delivery.

- 37) Upon receipt of the independent consultant's noise assessment by the Mineral Planning Authority required under Condition 36 of this permission, including all noise measures and any audio recordings, where the Mineral Planning Authority is satisfied of an established breach of noise limits set out in the Conditions 34 and/or 35 of this permission, and upon notification by the Mineral Planning Authority in writing to the operator, the operator shall within 21 days propose a scheme of mitigation for the written approval of the Mineral Planning Authority. The scheme of mitigation shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. Thereafter, the approved scheme shall be implemented in accordance with the approved details.
- 38) Notwithstanding the submitted details, no soil stripping operations shall take place until the detailed design of the topsoil and grassed overburden screening bunds as shown on approved plan 2636-4-4-2-1-DR-0002-S4-P9, titled: 'Initial Works and Phase 1 Extraction' has been submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and topsoil and grassed overburden screening bunds shall be constructed prior to mineral processing taking place within the site within the administrative boundaries of Gloucestershire.
- 39) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturers' specifications at all times, and this shall include the fitting and use of silencers. Except for maintenance purposes, no machinery shall be operated with its covers either open or removed.

#### Dust

- 40) The development hereby permitted shall be carried out in accordance with the approved 'Dust Management Plan – Proposed Quarry at Bow Farm', Revision D, dated 8 December 2021.
- 41) Notwithstanding the provisions of Condition 40 of this permission, the following measures shall be undertaken to suppress dust emissions on the site arising from all operations, including vehicular movements, mineral extraction, infilling operations and restoration:
- i. the provision of a water bowser and spraying units which shall be used at all times when there is a risk of dust arising from operations at the site;
  - ii. all plant vehicles shall have upward facing exhausts to ensure that emissions are directed away from the ground; and
  - iii. there shall be a maximum speed limit of 10mph within the site.
- 42) No soil stripping operations shall take place until a scheme for continuous dust monitoring has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include method, nature, frequency, duration and locations of monitoring, trigger levels and contingency and mitigation proposals should a trigger level be breached. Thereafter monitoring shall be carried out in accordance with the approved scheme.

#### Archaeology

- 43) Prior to the commencement of the development hereby permitted, a programme of archaeological work, including a Written Scheme of



Investigation, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include an assessment of significance and research questions and:

- i. the programme and methodology of site investigation and recording;
- ii. the programme for post investigation assessment;
- iii. provision to be made for analysis of the site investigation and recording;
- iv. provision to be made and timetable for publication and dissemination of the analysis and records of the site investigation;
- v. provision to be made and timetable for archive deposition of the analysis and records of the site investigation; and
- vi. nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

#### Tree Protection

44) Tree protection and arboricultural methods shall be implemented in accordance with the revised Arboricultural Report on Trees dated December 2021 and the approved plan 2636-4-4-2-1-DR-0021-S4-P3, titled: 'Tree Protection Plan', dated December 2021. All protective structures installed shall be maintained until all works have been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within or immediately bordering the site.

#### Ecology

45) Prior to the commencement of the development hereby permitted, a Biodiversity Mitigation Scheme shall be submitted to and approved in writing by the Mineral Planning Authority. The Scheme shall be based on Sections 8, 9.1 to 9.4 and Appendix 5 of the Ecological Impact Assessment in addition to Sections 3.14 to 3.25 of the Detailed Restoration Proposals and Landscape and Ecological Management Plan dated December 2021. The Scheme should be compiled by a suitably qualified ecologist and include method statements with details of further surveys, protection measures, translocation arrangements, timings of works, creation or enhancement of habitats and features, related aftercare management, monitoring, and contingency measures. The scheme shall include appropriate and precautionary method statements for:

- a) roosting bats in trees;
- b) badgers plus hedgehog and polecat;
- c) hedgerow, tree and ground nesting birds;
- d) flora that will be lost;
- e) grass snake and other reptiles;
- f) otters;
- g) wild mammals;
- h) any other legally protected or priority species that might be encountered (precautionary measures only);
- i) buffer or stand-off zones for all retained hedgerows, trees, plantations and watercourses;
- j) checking of temporary bunds and stockpiles for protected species and their protection prior to bund or stockpile removal;
- k) measures to control and prevent the spread of non-native invasive species;

- l) a work schedule of tasks (including a 10-year timetable and a long-term strategy for protected and priority species);
- m) monitoring and remedial or contingency measures;
- n) Ecological Clerk of Works responsible for implementation of the scheme.

The scheme shall be implemented as approved by the Mineral Planning Authority. Any significant modifications to the approved details, for example because of a protected species licence being required, must be submitted to and approved in writing by the Mineral Planning Authority prior to the modification being implemented.

- 46) Notwithstanding the submitted details, prior to the commencement of the development hereby permitted, an updated Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 47) Any fish rescue shall be carried out in accordance with the approved 'Fish Rescue Strategy – Land at Bow Farm, Ripple, Worcestershire – Planning Applications 19/000048/CM and 19/0081/TWMAJM', dated 31 August 2022. This shall include a post flood event review undertaken by a specialist contractor to ensure voids are investigated and cleared of any fish.

#### Stockpiled Material

- 48) The height of any stockpiled material shall not exceed 5 metres in height.

#### Soil Handling and Storage

- 49) The development hereby approved shall be carried out in accordance with the approved Soil Handling Strategy, Revision P4, dated 8 December 2021.
- 50) Notwithstanding Condition 49 of this permission, soil handling and movement, including soil stripping and the construction of soil storage bunds shall not be carried out between the months of December to March inclusive.
- 51) All topsoil and subsoil shall be permanently retained on site and used in restoration. All available soil forming materials shall be recovered during excavation to achieve restoration of the site.
- 52) All topsoil, subsoil and soil forming materials shall be stored in separate bunds which:
  - i. shall be constructed with only the minimum amount of soil compaction to ensure stability and so shaped as to avoid collection of water in surface undulations;
  - ii. shall not be traversed by heavy vehicles or machinery except where essential for the purposes of mound construction or maintenance;
  - iii. shall not be subsequently moved or added to until required for restoration;
  - iv. shall have a minimum 3 metre stand-off buffer of undisturbed ground around each storage mound;
  - v. shall only store topsoil on like textured topsoil and subsoil on like textured subsoil;

- vi. topsoil bunds shall not exceed 3 metres in height and subsoil (or subsoil substitute) bunds shall not exceed 5 metres in height; and
- vii. shall, if continuous bunds are used, have dissimilar soils separated by a third material previously approved in writing by the Mineral Planning Authority.

53) No plant or vehicles shall cross any area of unstripped soil or subsoil, except where such trafficking is essential for the purposes of undertaking permitted operations. Essential traffic routes shall be marked in such a manner as to give effect to this condition. No part of the site shall be excavated, traversed or used as a road for the stationing of plant or buildings or for the storage of subsoil, overburden, waste or mineral deposits, until all available topsoil has been stripped from that part. The exceptions are that topsoil may be stored on like topsoil and subsoil may be stored on like subsoil.

#### Restoration of the Site

54) Restoration of the site is to be as depicted in approved plan 2636-4-4-2-1-DR-0007-S4-P9, titled: 'Proposed Restoration' dated December 2021 and aftercare based on the management categories and details of the Detailed Restoration Proposals and Landscape and Ecological Management Plan dated December 2021 or any subsequent amendments that may be approved in writing by the Mineral Planning Authority. A restoration, aftercare and monitoring report shall be submitted to the Mineral Planning Authority for written approval each year. Annual reports are required for an establishment and ongoing aftercare period of not less than 10 years following the restoration of the plant site and silt lagoons.

55) In the event that the winning and working of minerals ceases prior to the achievement of the completion of the approved restoration scheme referred to in Condition 54 of this permission which, in the opinion of the Mineral Planning Authority constitutes a permanent cessation, a revised scheme, to include details of restoration and aftercare, shall be submitted to the Mineral Planning Authority for approval in writing within 6 months of the cessation of the winning and working of minerals. The revised scheme shall be fully implemented within 12 months of being approved in writing by the Mineral Planning Authority or such revised timescale as shall be determined by the Mineral Planning Authority.

56) In any part of the site where differential settlement occurs during the restoration and aftercare period, the operator, where required by the Mineral Planning Authority, shall fill the depression to the final settlement contours specified with suitable imported soils, to a specification to be approved in writing by the Mineral Planning Authority prior to such soils being imported to the site.

#### Aftercare

57) The land within the site shall undergo aftercare management for a 10-year period. Prior to any area being entered into aftercare, the extent of the area and its date of entry into aftercare shall be submitted to and approved in writing by the Mineral Planning Authority.

58) Notwithstanding the submitted details, prior to the commencement of the development hereby permitted an updated outline aftercare scheme shall be submitted to the Mineral Planning Authority for approval in writing. The 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 approved restoration scheme, as required by Condition 54 of this permission. These steps shall include the following:

- i. control of invasive species;
- ii. timing and pattern of vegetation establishment;
- iii. cultivation practices;
- iv. management of soil, fertility and weeds;
- v. drainage;
- vi. irrigation and watering;
- vii. a timetable for undertaking the aftercare scheme; and
- viii. the establishment of an aftercare working group comprising 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.

#### Records

59) From the date that the operation of the processing plant commenced, as notified under Condition 2 iv. of this permission, the operator shall maintain records of their monthly tonnage of mineral exported from the site, along with the monthly tonnage of imported inert waste for the purpose of restoration of the site and shall make such records available to the Mineral and Waste Planning Authority at any time upon request. The records shall be kept for a minimum of 24 months.

#### Pollution Control

60) No sewage or trade effluent, including cooling water containing chemical additives should be discharged to the surface water system. Vehicle washdown water shall be discharged into a totally sealed tank.

#### Interpretation Strategy

61) Within 6 months of the commencement of the development hereby permitted as notified under Condition 2 i. 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 strategy.

#### Permitted Development

62) Notwithstanding the provisions of Class A of Part 2, Class L of Part 7, and Class A and Class B of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order with or without

modification), no gate, fence, wall or other means of enclosure, fixed or mobile plant, machinery, buildings, structures, erections or private ways shall be erected, extended, installed, rearranged, replaced or altered within the site without the prior approval of the Mineral Planning Authority.

#### Other Matters

63) There shall be no crushing, screening, sorting or processing of any imported waste materials on the site.

64) No direct public sales operation shall be carried out from the site in association with the development hereby permitted.

65) No materials shall be burned on the site.

#### Local Liaison

66) Prior to the commencement of the development hereby permitted a scheme that sets out measures for liaison arrangements with the local community shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the approved scheme shall be implemented for the duration of the development hereby permitted.

#### Planning Permission

67) A copy of these conditions, together with all approved plans and documents required under the conditions of this permission shall be maintained at the site office at all times throughout the duration of the development and shall be made known to any person(s) given responsibility for management or control of activities/operations on the site.

## **APPEARANCES**

### FOR THE APPELLANT:

Mr John Bruce - Dust and air quality specialist, DustScan AQ

Mr Antony Cook - Planner, David Jarvis Associates Ltd

Mr Moreton Cullimore - M C Cullimore (Gravels) Ltd

Mr Dean Kettlewell - Noise specialist, NVC Ltd

Mr Richard Kimblin KC - Barrister, No.5 Chambers

### FOR THE LOCAL PLANNING AUTHORITY:

Ms Carrie Denness - Principal Lawyer & Business Partner

Mr Robin Drake - Planning Team Manager

Ms Sarah Pearse - Principal Planning Officer

Mr Marcus Sparrow - Senior Planning Officer

### INTERESTED PARTIES:

Col Mike Bennett OBE DL – local resident

Councillor Cate Cody - County Councillor for Tewkesbury

Mr Donmez - General Manager, Hilton Puckrup Hall Hotel & Golf Club

Mr Else - Technical consultant to Church End Nurseries and Puckrup Hall Hotel

Councillor David J Lockett – Chairman, Twyning Parish Council

Mr Martineau - Church End Nurseries and Far End Cottage

Mr Owenson – local resident

Mrs Reeves - Ripple Extraction Action Community Team

Mr Warner - local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

Bow Farm Appeal – Dust, Subject: Mr Robert Else (23rd October 2023): Route Map to Mr Else Statement

Bow Farm Appeal – Noise & Vibration, Subject: Mr Robert Else (23rd October 2023): Route Map to Mr Else Statement