

Warwickshire Minerals Plan
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INTRODUCTION

Fisher German LLP have been appointed to submit representations on the Warwickshire Minerals Plan and these are duly made in accordance with the 'Regulation 19 consultation'. The following representation are submitted in objection to the draft allocation of Site 5 – Glebe Farm proposed for inclusion within the latest version of the Warwickshire Minerals Plan. The proposed allocation of Glebe Farm has not been fully assessed in terms of its viability and deliverability, nor have the impacts associated with the proposed extraction been fully assessed. As set out in this report and the accompanying duly completed representation form, the proposed allocation of Glebe Farm fails the key statutory tests on numerous points and is as a result unsound and not legally compliant.

As the allocation of the site forms part of the Draft Plan, its inclusion compromises the soundness of the Plan, owing to the clear inconsistencies with National Policy. The proposed allocation has no reasoned justification, is not based on sound information or evidence. The allocation of the site would cause irreparable damage to the setting of a statutorily listed building, residential amenity, agricultural land quality and the local landscape. Further material impacts are also cited below which have failed to be considered in the preparation of the Warwickshire Minerals Plan and allocation of the small site which would have substantial adverse impacts.

It is concluded that the allocation of Glebe Farm (Site 5) should be withdrawn at the earliest opportunity which would enable the plan to be sound and compliant.

SITE CONTEXT

As shown in Figure 1, Site 5 (Glebe Farm) is positioned to the east of the A429 approximately 400m east of the settlement of Wasperton. The small 14 hectare site is stated in the Draft Minerals Plan as being capable of delivering 0.3 million tonnes of sand and gravel, which would be extracted in conjunction with the 85 hectare Wasperton site (Site 4), which directly adjoins the northern boundary of the Glebe Farm site.

The eastern boundary of the proposed sand and gravel extraction site directly adjoins the curtilage of Mr and Mrs Steel's listed residential property Seven Elms, and its associated land. Seven Elms is a Grade II listed building (List Entry: 1035125), which dates to the early 17th Century and is considered to represent a noteworthy example of this period of architecture; constructed of timber framing with rendered infill panels (Appendix 1 Copy of Listing). The residential property is privately owned and sole access for Seven Elms and Seven Elms Barn is taken directly through the centre of the proposed Glebe Farm site. The western boundary of the site adjoins and includes the farm buildings of Glebe Farm, which is understood to be a viable enterprise and currently tenanted by a young farming family.



Figure 1: Glebe Farm (Site 5) proposed site allocation boundary

TESTS OF SOUNDNESS

The representation below refers to tests of soundness as set out in paragraph 182 of the National Planning Policy Framework and clearly demonstrates that on each point the proposed allocation of site 5 Glebe Farm fails to comply:

- **Positively prepared** - the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** - the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** - the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities;
- **Consistent with national policy** - the plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.

POSITIVELY PREPARED

It is evident that there has been a distinct lack of engagement with the residents of Seven Elms and Seven Elms Barn in the preparation of the Minerals Plan and the proposed allocation of the Glebe Farm site. This is of particular concern in relation to the resident's right of access directly through the centre of Site 5. There are no alternative access points available to the residential properties at Seven Elms. There have been no discussions regarding changes to the arrangement of access being proposed to the residents of Seven Elms. A right of access across

the proposed minerals site is established and must therefore be maintained. This requirement will fundamentally affect the proposed allocation's ability to extract material and will limit the viability of the site and accordingly its deliverability. The draft Minerals Local Plan presents vague detail of the proposed extraction site, which makes no mention of the right of access across it and appears to remove fully the existing vehicle access for Seven Elms, of which the inhabitants have a legal right of access across. The access also contains a number of above and below ground services for which diversions would be required which would adversely impact the residents of Seven Elms and Seven Elms Barn and must be retained. The existence of this right of access has been omitted from consideration in the draft Minerals Local Plan. There is no basis for the removal of the access across the site, and accordingly the access would have to be retained in situ with an appropriate buffer applied. The retention of the access across the proposed Glebe Farm site would reduce the potential working area and would impede the extraction of sand and gravel from site. In this regard, the plan has not been positively prepared and the failure to engage and recognise the constraints of the site has resulted in the proposed allocation of an undeliverable site.

JUSTIFIED AND EFFECTIVE

The Glebe Farm site was initially proposed for allocation within the Spatial Strategy and Preferred Site Options as a standalone allocation. It is, however, outlined within the draft Minerals Plan document that the intention for the site would be to combine its extraction with the larger Wasperton site (Site 4) to the north. It is therefore evident that this site cannot stand alone as an allocation, as it is of insufficient size and resource to be a deliverable allocation and economically viable proposition. The site has constraints along the western, eastern and southern boundaries and an access track through the middle that substantially constrains the area available for working the mineral. The site therefore cannot be allocated as a separate Site 5 and as indicated in the text associated with the allocation, is entirely dependent on the Wasperton site (Site 4) being allocated and subsequently receiving consent for extraction. It is understood that the sites are in separate ownership, which again poses a risk that the Wasperton site could not come forward in the future. It is not known whether an operator is interested in Site 5, which again raises concerns in relation to the deliverability of the site. In the instance, that Site 4 was not progressed then the viability of the Glebe Farm site would be compromised. On this basis, the site cannot be considered as truly deliverable.

For the Minerals Plan to be considered effective, Paragraph 182 of the NPPF states that it should be deliverable over the specified plan period. The draft plan is not effective in this regards as site 5 is not deliverable as a standalone allocation, due to its dependency on another third party site coming forward, of which it has no control. The site is too small and has insufficient resource to come forward independently, and is fundamentally constrained by an access track and three residential properties in very close proximity of which one is listed. These constraints mean that the allocation of Site 5 cannot be developed independently of the Wasperton site, and is therefore non-deliverable. As this site is not deliverable alone this compromises the effectiveness of the plan to provide the assessed minerals needs of the County.

The Planning Practice Guidance states that minerals planning authorities should plan for the steady and adequate supply of minerals. The guidance for designating specific sites states that they should be allocated "*where viable resources are known to exist, landowners are supportive of minerals development and the proposals is likely to be acceptable in planning terms*". It is acknowledged that the resource exists and landowners (although those with legal rights have not been considered) are supportive of site 5, but in the final element of this criteria the site fails to comply. The resource exists but is not accessible to the extent stated in the draft plan due to the constraints on 3 boundaries, with the access track through the centre. Due to

these constraints the accessible resources are substantially diminished and would not be viable without the larger site to the north also coming forward for allocation. This separate site is not under the landowner of site 5's control and is therefore undeliverable as an isolated allocation. Most critically, the site is not acceptable in planning terms, it is contrary to the principles of sustainable development, the golden thread that runs through the NPPF; is constrained by heritage designations and landscape factors and consists of good quality agricultural land. Overall, these material considerations weigh against the proposed allocation of the site with a relatively small resource.

Further concerns regarding the viability of the site are raised in relation to the reported minerals extraction figures. The site at Glebe Farm is considered to represent a very small site, extending across only 14 hectares. The assessment of the site outlines that just 0.3 million tonnes of sand and gravel could be extracted from the site across its operational period. On these grounds alone, it is deemed that there is no justification for the loss of an established agricultural unit to extract a nominal amount of sand and gravel. Whilst the limited extraction amount should itself provide justification alone for Site 5's non-allocation, it is identified that the reported extraction amount is imprecise, as it does not take into account the site limitations, which substantially reduce the available resource for extraction.

The draft allocation has failed to take into account the standoff distances that must be provided around Seven Elms, its residential curtilage, and the applied buffer along the access track. As detailed within the Planning Practice Guidance for Mineral extraction, a buffer zone should be considered as appropriate in specific circumstances, where it is clear that based on site-specific assessments and other forms of mitigation measures, a certain distance is required between the boundary of the minerals extraction area and an occupied residential property. A buffer distance should be established on a site-specific basis and must take into account, the nature of mineral extraction activity; the need to avoid undue sterilisation of mineral resources; location and topography; the environmental effects and mitigation measures that can be applied.

At present, the proposed site allocation is suggesting a minimum buffer of 100m from Seven Elms and Seven Elms Barn. The proposed minimum buffer is shown in Figure 2 below. The image also illustrates the proposed 100m buffer around Glebe Farm. As demonstrated, the application of the buffer around the three properties would greatly reduce the land available for extraction. As outlined in green, the annotated image below, demonstrates a 100m 'standoff' from the residential curtilage and a buffer of 10m either side of the access road. With the blue outlined annotation, demonstrating the application of the 100m 'standoff' around the curtilage of Glebe Farm. The proposed 100m standoff buffer is not considered to be acceptable when due consideration is given to the proximity of the residential property, its listed status and its location in the direction of prevailing wind. Taking into account these factors, it is clear that the buffer distance is not adequate and should be extended to a minimum of 250m of which there is evidence that other sites in the UK have adopted.

A report produced by the British Geological Survey (A guide to Mineral Safeguarding in England - October 2007), provides guidance on acceptable buffer limits that have been confirmed through industry consultation. The report outlines that for the extraction of soft rock (where blasting is not required) a minimum 250m buffer should be applied for sites of sand and gravel extraction. A technical report produced by the Department of Environment on acceptable buffer zoning for minerals sites, outlines that severe or persistent concerns relating to dust generation are most likely to be experienced closest to the generating dust sources. To alleviate such concerns, standard practice from local planning authorities should be to incorporate policies that require a minimum standoff distance, which are typically applied at between 250-500 metres.

In providing evidence of such compliance, it is cited that the neighbouring authority of Leicestershire specifies a minimum buffer of 500m from any quarries or crushers within its Minerals and Waste Plan. The British Geological Survey outlines within its guidelines, that a 250-500m buffer zone should be applied to limit dust sources from affecting surrounding communities. In accordance with this external guidance, the statutory listed status of the building and comparative policy applied by other neighbourhood authorities demonstrates that the proposed 100m standoff is insufficient and as a minimum a 250m standoff should be supplied.



Figure 2: Annotated aerial image showing 'extractable' land, with 100m buffer applied

Furthermore, Thelsford brook follows the southern boundary of the site which requires a buffer zone to protect it from contamination. A 10m buffer zone has been applied in other cases as a minimum buffer for small watercourses. It is noted that the brook is subject to flooding which incurs into the site and therefore, flood protection would also be required which could have adverse flooding impacts downstream.

The aerial photograph above has been annotated to provide an indication of the buffer zones and shows the constraints that this would impose upon the site. The working area would be reduced to two separate plots, which would represent an area of only 6.7 hectares. The illustrated reduction in extractable land therefore challenges the viability of the allocation as a standalone extraction site and the accuracy of the calculated 0.3 million tonnes extraction potential.

Further concerns relate to the site investigations, which have taken place on the site. It is understood that of the six proposed trial pits, only four were excavated, of which only one was completed due to operational difficulties involving pit collapse. The accuracy of the inferred 2m sand and gravel depth is therefore questioned as this calculated figure has been informed via a single trial pit.

In light of the above information, the amount of resource available is not based on reliable evidence and when the buffers are included the site is further constrained. The evidence base is unsound, the justification for the allocation of the site has not been provided and the allocation is not effective as only a small part of it is actually deliverable when the constraints have been identified.

CONSISTENT WITH NATIONAL POLICY

The National Planning Policy Framework outlines that in the preparation of Local Plans, the planning authority should set out environmental criteria in line with the policies of the document, to ensure that any permitted operations including Mineral Extraction, would not have an unacceptable impact upon the natural and historic environment or human health. Consideration should therefore be made towards the affect that a proposed development may have on the applied environmental criteria, which includes the impact of noise, dust and visual intrusion.

Environmental and Social

Dust

The Technical Guidance for the NPPF outlines that, "*any unavoidable dust emissions are controlled, mitigated or removed at source*". The activities associated with mineral workings and their related dust production varies depending on the extraction techniques employed and the sensitivity of the surrounding land uses to the effect of dust. The Technical Guidance for Dust Emissions outlines that 'Residential Areas' are considered to represent a Medium Sensitivity.

The Technical Guidance cites research undertaken by Arup Environmental/Ove Arup and Partners and the University of Newcastle upon Tyne, which outlines that measures to control PM10 particles are necessary, if the actual source of dust emission (e.g. the haul roads, crushers, stockpiles etc.) is within 1,000m of any residential property. The requirement for such measures is on account that PM10 particles (less than 10 µm), emitted from most mineral workings, are only deposited slowly and can travel beyond 1000m. PM10 particles have the potential to affect detrimentally on human health, with long-term exposure leading to respiration issues. Whilst it is noted that dust suppression methods would be employed, such methods cannot fully eliminate this risk.

Given the close proximity of Site 5 to Seven Elms, a sensitive receptor and listed building, and Seven Elms Barn and the direction of the prevailing wind, it is considered that there is a demonstrable risk that the allocation of Glebe Farm for the extraction of sand and gravel would have a detrimental effect on the properties and its inhabitants. In identification of this potential risk, the proposed allocation would not be consistent with the direction of the NPPF that outlines in Paragraph 120 that planning policies should ensure that development, which presents a pollution (dust) risk, should be appropriately located to avoid any health impact associated with the produced pollution.

Noise

The National Planning Policy Framework outlines that planning policies should aim to avoid new development that gives way to noise that has the potential to significantly impact upon health and quality of life.

The draft Minerals Plan provides no evidence to indicate that an acceptable noise limit could be established at Site 5, which would avoid any undue impact on the sensitive receptors Seven Elms and Seven Elms Barn. It is outlined that because of the proposed sites proximity to the residential properties, it would be difficult for the site to operate in accordance with the maximum 55db limit and duly an unacceptable impact on quality of life would be forthcoming, which would not be consistent with the direction of the NPPF.

Landscape

The Sustainability Appraisal report states that as the site shall be developed in conjunction with Site 4, there will be a significant cumulative effect on the local landscape. On both sites, the cited loss of local landscape features and the visual impact on nearby residential receptors will be notable. Whilst the Appraisal Report does cite the potential for restoration of the site, it is concluded that permanent changes to local landscape shall occur.

Warwickshire County Council undertook a desktop landscape assessment which reviewed the landscape significance of each Warwickshire County Council owned proposed minerals site. The assessment of Glebe Farm concluded that the broad area of the site has a landscape character that is of moderate sensitivity and visibility, with the assessment outlining that it would be difficult to effectively mitigate the impact of the minerals development on the local landscape.

The surrounding landscape which as detailed with the landscape assessment would be permanently detrimentally effected by the proposed minerals extraction, is considered to be a valued landscape that contributes to the setting of the Grade II listed Seven Elms. Paragraph 11 of the NPPF states that valued landscapes should be protected and enhanced, of which landscapes that contribute to the setting of a listed building being deemed as valuable from a heritage perspective.

It is clear from the assessment undertaken by Warwickshire County Council, that the proposed mineral extraction of Glebe Farm cannot be adequately mitigated from a landscape perspective, thereby failing to comply with Paragraph 11 of the NPPF. The conclusion is that it will not be possible to mitigate the impacts, the visibility and inherent rural character are key considerations and the site should not be taken forward as an allocation on this basis.

Heritage

Setting is defined in the National Planning Policy Framework (NPPF) as "*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral*". In this instance, the listed building is a residential property and as such, the value of the property is primarily its residential amenity. It is therefore clear that the significance of the setting would be compromised by an immediately adjoining site being worked for mineral extraction.

In line with the National Planning Policy Framework (NPPF), great weight should be given to the conservation of any heritage assets that has the potential to be impacted upon, by any proposed development. The allocation of the Glebe Farm site and its associated mineral extraction will cause a detrimental and irreversible harm to the setting of the Grade II listed Seven Elms, which has stood in its current location since the 17th Century. Whilst the minerals site will be subjected to a full restoration scheme on completion of extraction, the restoration of the affected landscape to its current condition will not be achievable, as outlined within the Sustainability Appraisal Report conducted on behalf of Warwickshire County Council,

which cites that 'permanent changes' to the landscape are likely to occur. Accordingly, the development of the Glebe Farm will result in permanent harm to the setting of the Grade II listed Seven Elms.

As outlined within the NPPF, any harm to a designated heritage asset should require clear and convincing justification, and where substantial harm to a grade II listed building is forthcoming such justification should be exceptional. In respect of this directive, it is considered that there exists no exceptional justification for the allocation of Site 5 (Glebe Farm), on account that the proposed minerals site does not comprise a notably significant amount of sand and gravel, and the presence of other larger and more appropriate sites being available within the County area.

The Sustainability Appraisal Report, which includes the assessment of the Glebe Farm site, states within SA Objective 6, that '*to preserve and enhance sites features and areas of historic, archaeological or architectural importance and their settings*', all decision making should seek to '*protect and enhance the setting of Conservation Areas, Listed Buildings, SAMs and other features of cultural, historical and archaeological value?*'. This assessment of Glebe Farm (Site 5) makes no reference to the presence of the listed Seven Elms. As the assessment has failed to fully consider the overall impact of the minerals allocation, and accordingly does not provide suitable mitigation, it should be considered that the Minerals Plan has not been prepared in an effective and justified manner.

Whilst the Sustainability Appraisal Report makes no reference to the listed Seven Elms property, the assessment of the Wasperton site (Site 4) has identified the presence of other listed building upon the site, to which the report assesses that '*significant negative effects are predicted*'. Such outcome would be in direct contravention with Objective 6 of the Sustainability Appraisal. Accordingly, it is considered that an allocation of Site 5 for minerals extraction would have a similarly negative effect upon the setting of the listed Seven Elms and is therefore in contravention with national policy.

Archaeology

No evidence of an adequate consideration of undiscovered archaeological remains has been provided within the proposed allocation of the Glebe Farm site. The land surrounding the site has a known archaeological significance, with a number of historic archaeological land features on site and within proximity, with the remains of the Thelsford Priory Scheduled Monument located 270m to the south west of the proposed minerals site. As detailed by Paragraph 128 of the NPPF, sites for development should at a minimum consult historic environmental records and where necessary any identified heritage assets should be assessed using appropriate expertise. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, developers are required to submit an appropriate desk-based assessment and, where necessary, a field evaluation. On account of the absence of any appropriate archaeological consideration in the form of an archaeological assessment, it is considered that the proposed allocation is not consistent with this national policy guidance and is therefore unjustified and unsound.

Contamination of watercourse

No details are provided as to how the proposed extraction will mitigate against the risk of sand and silt entering the Thelsford Brook. The identified watercourse runs along the southern side of the site and is a tributary to the River Avon. It is anticipated that as extraction will occur below the water table, the site will require some degree of out pumping during extraction. This poses a risk that some sand and silt may enter the watercourse of the Thelsford Brook causing possible

ecological damage and a potential increase in flood risk. It is accepted that mitigation methods can be implemented to avoid this outcome, but the outlined risk remains and has not been fully considered by the proposed sites inclusion. A buffer zone of at least 10m is proposed and potentially bunds to address flooding which could have downstream impacts. Again on these points inadequate consideration has been given to the potential impacts on the watercourse and no clear buffer zone proposed.

Economic

There is very real doubt that the site would progress through the planning system, as material considerations against the proposal currently outweigh the limited economic benefits of such a small site. In particular the Planning (Listed Buildings and Conservation Areas) Act 1990 states at Paragraph 66 that in considering whether to grant planning permission for development that would affect a listed building or its setting, the planning authority shall give special regard to the desirability of preserving the building or its setting. A sand and gravel quarry directly adjoining the listed building will adversely impact on its protected setting and compromise the residential character of the immediate setting.

Land Classification – The Best and Most Versatile Land

The proposed allocation of Glebe Farm for minerals extraction will lead to an irreversible loss of an area of best and most versatile agricultural land (Grade 3A). The NPPF outlines within Paragraph 112, that where development is to affect agricultural land, local planning authorities should give preference to the development of poorer quality land over high quality land. In accordance with the direction of the NPPF, it is identified that a number of other sites proposed for allocation, that are situated on lower grade agricultural land have been rejected, seemingly without any due assessment towards agricultural land quality.

A precedent for the protection of the best and most versatile agricultural land has already been established within this location, with the proposed extraction of the Wasperton Hill Farm Site (Site 4) in 1993, refused by the appointed Inspectorate on the grounds that significant environmental impacts would be incurred by the development. These grounds for refusal included the unacceptable loss of "*land of the best and most versatile quality...which would be permanently lost to agriculture*".

The national planning policies protection of the best agricultural land remains relevant for applications that propose to effect land of this quality. Accordingly, it is assessed that the Mineral Local Plan has not been prepared in a way that is consistent with national policy. This is further compounded by the document providing no indication that adequate consideration has been paid to alternative sites upon of less agriculturally significance, within the site allocation process, thus raising concerns as to whether the plan has been prepared in a justified manner.

Land Restoration

The draft Warwickshire Minerals Local Plan states that the '*Loss of agricultural land can be avoided if the site can be restored to its previous grade through acceptable infilling and/or through lower land levels*'. Whilst such processes can ordinarily be seen as acceptable, particularly on lower quality agricultural land; a standard restoration at Glebe Farm would be wholly inadequate when taking into account the lands best and most versatile designation.

It is further deemed that the restoration of the site to an appropriate standard is unachievable. As stated within the Preferred Options and Policies of the Draft Minerals Plan, Key Issue 6 outlines that at present there is an existing shortage of material that can be used to fill quarry voids on completion of extraction. Taking into account this existing shortage and the highest grade material that would be required to return the site to its existing condition, it is considered that the proposed restoration could not be completed in a timely manner and should therefore be seen as unacceptable in planning terms. Paragraph 144 requires local planning authorities to provide restoration and aftercare for mineral extraction sites at the earliest opportunity and to the highest environmental standard. Clearly, the existing shortage of inert waste would prevent a timely restoration and accordingly the Minerals Plan is not compliant with national policy.

Another potential solution for site restoration could be the implementation of low-level land restoration, which requires the infilling of less material to restore land back to agricultural use. This option is considered neither desirable, nor achievable upon the Glebe Farm site, owing to the low-lying nature of the land that is close to the water table for parts of the year. A low-level land restoration process would therefore result in the site being waterlogged or partially submerged for extended periods, meaning that this best and most versatile agricultural land could never return to its current intensive agricultural use.

CONCLUSION

This representation fundamentally objects to the draft allocation of Site 5 – Glebe Farm proposed for inclusion within the latest version of the Warwickshire Minerals Plan. The proposed allocation of Glebe Farm has not been fully assessed in terms of its viability and deliverability, nor have the impacts associated with the proposed extraction been fully assessed. As set out in this report and the accompanying duly completed representation form, the proposed allocation of Glebe Farm fails the key statutory tests on numerous points and is as a result unsound and not legally compliant.

As the allocation of the site forms part of the Draft Plan, its inclusion compromises the soundness of the Plan, owing to the clear inconsistencies with National Policy. The proposed allocation has no reasoned justification, is not based on sound information or evidence. The allocation of the site would cause irreparable damage to the setting of a statutorily listed building, residential amenity, agricultural land quality, a viable farm enterprise and the local landscape. Further material impacts have failed to be considered in the preparation of the Warwickshire Minerals Plan and allocation of the small site which would have substantial adverse impacts.

It is concluded that the allocation of Glebe Farm (Site 5) should be withdrawn at the earliest opportunity which would enable the plan to be sound and compliant.