

Regulatory Committee – 6 April 2021

Proposed erection and operation of a sand and gravel processing plant and weighbridge with associated silting facilities.

**Wolston Fields Quarry, Wolston Lane, Wolston,
Warwickshire.**

RBC/20CM010

Application No.: RBC/20CM010

Advertised date: 25 June 2020

Applicant(s) Smiths Concrete Limited
Southam Road
Banbury
Oxfordshire
OX16 2RR

Agent(s) Mr Ian Briggs
Landesign
Ark Business Centre
Unit 3, Gordon Road
Loughborough
Leicestershire
LE11 1JP

Registered by: The Strategic Director for Communities on 19 June 2020

Proposal: Proposed Erection and Operation of a sand and gravel processing plant and weighbridge with associated silting facilities.

Site & location: Wolston Fields Quarry, Wolston Lane, Wolston, Warwickshire. [Grid ref: 440163.1.275504.3].

See plan in Appendix A

Recommendation

That the Regulatory Committee authorises the grant of planning permission for the proposed erection and operation of a sand and gravel processing plant and weighbridge with associated silting facilities subject to the signing of a Deed of Variation to the existing S106 and to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities

1 Application Details

- 1.1 This planning application seeks a standalone temporary planning permission for the erection of a processing plant, weighbridge and associated silting facilities at Wolston Fields Quarry. The current planning permission requires the whole site (including the plant site) to be restored by October 2024. The proposal is to work to that same timescale which means the plant site would be operational for about 2.5 years ceasing in Summer 2024.
- 1.2 The application comprises the erection and operation of a sand and gravel processing plant and associated structures including a screening bund, stockpiles, silt pump and generator and concrete pad; a weighbridge and three silt lagoons two of which would be used for silting and the other for clean water.
- 1.3 The proposed plant would seek to process the remaining 350,000 tonnes of materials to be extracted from the existing quarry over the next three years. It would have the capacity to handle up to 150,000 tonnes per year and would release up to 45,000 tonnes of silt which would be used in the future restoration of Phase 5 of the permitted workings.
- 1.4 The excavated sand and gravel would be transported from the quarry face by articulated dump trucks and tipped into a surge pile in the processing plant area. Front loading shovels would take the raw material to a feed hopper where it would then be conveyed to a washer and mixed with water, washed then conveyed into 5 separate graded stockpiles up to heights of between 3-6m. The loading shovels would then fill HGVs from the various graded stockpiles for onward despatch.
- 1.5 The proposed plant covers an area of about 0.2 ha and would be about 41m in length and 6.3m in height at its highest point the top of the initial conveyor and would be operated using its own on-site generator. There would be a dedicated lorry turning area within the plant site link to the main site haul road. The remainder of the plant site area beyond the main haul road which crosses the site area from south west to north east would be remain under grass. It would take 6 months to construct before processing could commence at the site should planning permission be granted.

- 1.6 Soils from the plant site area would be stripped and stored in a 3m high soil bund located immediately to the west, south and east of the plant to create a plant and stock yard. The bund which measures about 293m in length and having varying widths of between 6.5 -30m would be used to store soils, screen the plant, abate dust emissions, and reduce noise levels from the processing and associated transport operations.
- 1.7 Processed materials would be transported by HGVs from the plant site along a haul road to the existing access where they would be weighed on a new weighbridge before leaving the site. The weighbridge would be floor mounted no higher than 1m and would extend to 22m x 3m wide some 40m from Wolston Lane. There would be a protected pedestrian walkway from the weighbridge to the site office for health and safety reasons to keep pedestrian and HGV traffic separate. All vehicles leaving the site would turn right onto Wolston Lane before proceeding southwards to market primarily the company's ready mixed concrete and mortar batching plants in Coventry and Warwick and Oxfordshire. All HGVs would first use the existing wheel washing facilities before exiting the site.
- 1.8 The waste mineral material (silt) liberated during washing would be pumped by electric pumps and via 10 -12" underground (haul road and footpath)/overground plastic pipes to two silt lagoons (one of which has been constructed) in the Phase 5 excavations on the western side of the site. The silt pipes would be manoeuvred along the western edge to enable the material to settle more evenly across the lagoon area through a series of "silt beaches". The excess water would collect and then pass through connections into a clean water lagoon before being piped back to the plant site to be used in the washing process. The aim is to divert all excess water including surface water into the clean water lagoon before it can discharge into the River Avon in accordance with an existing discharge permit. At present surface water leaves the site via ditches into the discharge point.
- 1.9 The proposed plant site would be operated during the hours of 0700 – 1800 Mondays to Fridays with maintenance taking place between the hours of 0800 -1300 on Saturdays only.
- 1.10 The proposed development would provide employment for 6 people who would be relocated from the existing Bubbenhall facility which would cease operations.
- 1.11 The plant and associated structures together with the haul road, silt pipes, weighbridge and access track would be removed as part of the final restoration of the site. The existing site is covered by a restoration plan which provides for the access, and haul road to be returned to agricultural land and the silting facilities to rough grassland, lakes with islands, ponds and scrapes and ditches connected to the river. The plant site would be restored back to agriculture – horse paddock using the soils in the soil bund proposed around the plant.

- 1.12 The initial plans submitted have been amended to incorporate changes to the plant site and site administration layout and to give details of the restoration of the site.
- 1.13 The applicants have made a case for the need for this processing plant to be taken into account in determining this proposal based on the following points:
- The lease on the existing plant site at Bubbenhall expires in March 2022 at which time the company will have to vacate the site and remove the plant. The waste operator (FCC) will then complete waste infilling and restoration. There is no indication that FCC will extend the lease for a further 2 years.
 - Now the company needs a new operational plant site up and running by Summer 2021 to avoid a break in production.
 - If the company cannot stay at Bubbenhall then in their opinion there are no other options. Setting up a processing facility on an industrial site assuming one can be found would be costly in terms of land take/space, water resources, commercial rent, and the issue of disposing of the silt and transport.
 - Wolston is the preferred option because it is well screened, can accommodate the silt, will reduce quarry traffic, it is in the right place, it has water supplies, and it is the only one available.
 - The company have no other land holdings in the locality suitable for processing. Their main business is producing concrete aggregates which is dependent upon the availability of processed sand and gravel.
 - This planning application has been brought forward due to the time lag created by the planning and site preparation periods and to avoid a break in production and operation of their business.
 - The company would prefer to stay at Bubbenhall but feel they have no choice other than to pursue the Wolston processing plant option.

2. Consultation

- 2.1 Rugby Borough Council Head of Planning and Culture Services – No objections from the Landscaping Officer.
- 2.2 Rugby Borough Council Environmental Health –No objection subject to conditions requiring the provision of acoustic housings/shrouding around noise generating parts of the proposed plant and treating the loading hopper. In terms of dust control the mitigation measures already in place for the site should be continued. The crushing, grinding, screening and grading of wet material is not normally likely to result in the release into air of particulate matter except in a quantity which is deemed “trivial” under the guidance. From the details supplied, this proposal will not require a permit under the Environmental Permitting (England and Wales) Regulations 2016 (as amended). The applicant’s assessment report should be accpeted.

- 2.3 Environment Agency – No objection subject to the operator continuing to operate under the current planning permission and all of its conditions, updated environmental permits and construction & environmental management plan.
- 2.4 Brandon & Bretford Parish Council – No comments received at time of writing.
- 2.5 Ryton on Dunsmore Parish Council – Object. They understood that a processing plant would not be erected on the site and the site already has a weighbridge. They express concern about the environmental impact that the silting proposals would have on the population. The level of dust and dirt in the area would increase leading to increased pollution.
- 2.6 Wolston Parish Council – No objections.
- 2.7 Councillor Heather Timms – No comments received at the time of writing.
- 2.8 Councillor Howard Roberts – No comments received at time of writing.
- 2.9 Ramblers Association - Warwickshire Ramblers have been impressed by the restoration work already carried out on the previously worked areas of this site, and by the quality of diversion provided for the temporary diversion of public footpath R144 around the workings. In the expectation that similar high standards of operation and restoration will continue Warwickshire Ramblers have no objection to this application.
- 2.10 Natural England - No comments received at time of writing.
- 2.11 Warwickshire Wildlife Trust - No comments received at time of writing.
- 2.12 Flood Risk and Water Management – No objection subject to the imposition of a planning condition requiring a maintenance plan for the surface water systems.
- 2.13 Highway Authority – No objection subject to the imposition of the existing highway related conditions and continued compliance with the existing and varied S106 HGV routing agreement.
- 2.14 Historic England – No comments to make however they do refer the Council to the existing published advice entitled “The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning (2nd edition, December 2017).

- 2.15 WCC Ecology Services – No objection subject to two planning conditions being imposed one dealing with a Construction and Environmental Management Plan and the other for a Landscape and Ecological Management Plan incorporating a restoration plan and a maintenance and management plan. They also advise that in terms of the implications of the Holohan case and Habitats Regulations Assessment (see paragraph 6.45 below) which relates to the impact of development proposals on migratory fish species designated as part of the Severn Estuary Special Area of Conservation, Special Protection Area and RAMSAR site, which spends part of their life span cycle in the wider Severn hydrological catchment site and includes the Warwickshire Avon and its tributaries the proposals would not have an adverse effect on the integrity of the European site.
- 2.16 Civil Aviation Authority and Coventry Airport - No comments received at time of writing.
- 2.17 Rights of Way – No objections subject to the imposition of conditions and advisory notes.
- 2.18 Landscaping Services – No objection. The impact on landscape character and visual impact would be temporary. It would be important to maintain hedgerow protection around the site.
- 2.19 Severn Trent Water – No comments but requests a note to attached to any decision pointing out that a public sewer crosses the plant site. Consent is required from STW to build close to, directly over or to divert the sewer.
- 2.20 The Coal Authority – No comments. The site lies within a defined Development Low Risk Area where there is no requirement to consult the Authority.

Publicity

- 2.21. Three site notices posted – 22 June 2020
- 2.22. Press notice posted on – 25 June 2020
- 2.23 13 nearest properties individually notified on 25 June 2020

3. Representations

3.1 Two representations from members of the public have been received in response to the application at the time of writing this report. The concerns of the writers were:

- processing at Wolston is a change to the agreed plans.
- the proposal may become a stepping-stone to the introduction of other operations such as concrete production and may extend the life of the site beyond 2024.
- tipping of waste products such as tarmac in environmentally sensitive areas.
- increase in noise and damage to the village of Wolston.
- developments have been tolerated in the knowledge that the site would close soon.

3.2 A local landowner telephoned in December 2020 to say that they had no complaints about the operation of the site. If it were possible, they would like to see the good work done to the existing footway on Wolston Lane to be extended northwards towards the village. The footway is narrow in this location and does not encourage use by those with pushchairs.

4. Previous Planning History and Development to Date

4.1 An application for planning permission was made under Reference R/89/1146 for the extraction of sand and gravel and was refused on the 7 October 1991.

4.2 A further application for mineral extraction was made under reference R/08/CM003 and was subsequently withdrawn on 2nd May 2008.

4.3 Planning permission was granted on the 6th of February 2014 under reference no: RBC/12CM018 for the extraction of sand and gravel with restoration via importation of inert materials to a mixed after use of agriculture and nature conservation. Mineral extraction at the site is divided into 8 Phases by this permission. Prior to the granting of this consent, the land had been in agricultural use. The permission is subject to a S106 agreement which provides for the prohibition of vehicles through the villages of Ryton and Wolston except for local deliveries, the setting up of a site liaison committee and a contribution towards footway construction along Wolston Lane.

4.4 On 21st August 2018 a non-material amendment was approved by Officers to allow the construction of a new settlement pond in Phase 5 to provide facilities for the latter working of the site. On 18th February 2019 a further non-material amendment was approved to allow Phase 7 to be worked prior to the recommencement of operations in Phase 5 and prior to the commencement of operations in Phase 6.

- 4.5 Planning permission was granted on 13th January 2020 under reference no: RBC/19CM005 to vary conditions 2, 6 and 7 of planning permission RBC/12CM018 to extend the time limit to 21st October 2024 to complete sand and gravel extraction, import inert materials, and restore the site; to increase the total quantity of mineral extracted from the site from 900,000 tonnes nett to 1,200,000 tonnes nett; and to increase the total quantity of inert infill materials from 650,000 tonnes to 850,000 tonnes. The existing S106 was varied to provide for a further footway construction contribution and maintenance of the existing provisions in terms of prohibition of vehicles and the site liaison committee.
- 4.6 The site operator 'Smiths' commenced operations at the quarry in October 2014, which involved the stripping of soils and overburden from Phase 1 and the subsequent extraction of sand and gravel. Phase 2 was then worked in the same manner, and along with Phase 1 restored to ponds, and grassland/woodland in accordance with the approved restoration scheme.
- 4.7 Mineral extraction has been completed in Phase 3 and most of the land restored to original ground levels and to its previous use of agriculture. A relatively small area of Phase 3 currently occupied by the site administration area and internal haul road remains to be backfilled and restored. These works will be undertaken before the site is vacated.
- 4.8 Smiths have been, over the past two years, working, infilling, and restoring Phase 4. Phase 4E has been restored and will be grass seeded next year while Phase 4F has been returned to grass and Phase 4B infilled. Working has commenced in Phase 7 the most easterly part of the quarry. Soils have been removed from Phase 5B to access the underlying mineral reserves. During each phase soils and overburden are stripped separately and where possible directly placed upon other previously worked areas of the site to facilitate the site's progressive and early restoration. Where direct placement is not possible, soils and overburden are stored separately in storage bunds prior to their onward placement when required.
- 4.9 A new settlement pond has been created at the southern end of Phase 5 in areas 5A and 5C. Water from the base of the quarry workings is pumped to enable the dry working of the current extraction area and stored in the pond. This practice allows for the maximisation of mineral extraction. The water is allowed to settle in the pond so that any suspended soils and silts sink to the base of the pond. This ensures that excess clean water is discharged into the River Avon in accordance with the operators discharge consent issued by the Environment Agency.

- 4.10 All mineral extracted from the site is currently transported by HGV to the processing plant at Bubbenhall Quarry, approximately 3 miles to the south. The sand and gravel are washed and graded to produce a saleable product for use in the local construction market. When the Council agreed to extend the time limit for mineral extraction at Wolston Fields separate permission was also given to vary condition 4 of planning permission ref: WDC/12CM019 to continue the importation, processing, stocking and onward sale of sand and gravel at Bubbenhall Quarry for an additional 2 years until 19th January 2024 (Reference WDC/19CM004). This arrangement will cease if planning permission is given for the proposed processing plant at Wolston.
- 4.11 The site continues to be the subject of a site liaison committee which allows local people and others to monitor the performance of the quarry against its planning and environmental controls.
- 4.12 During the processing of this application concerns have been raised about the practice of tipping construction materials near to the haul road. On a site visit in December 2020 officers noticed four such small stockpiles which the company said were to be used to maintain the existing haul road. Maintaining a supply of materials to keep the haul road operating in a safe and environmentally acceptable is a reasonable approach and is common to most mineral sites so no further action is proposed in relation to this incident. This situation will continue to be monitored by your Officers. Further details on complaints about mud on the road are dealt with in paragraph 6.55 below.

5. The NPPF and the Development Plan

National Planning Policy Framework 2019

- 5.1 Section 38(6) of the 2004 Planning and Compensation Act requires that planning applications are determined in accordance with the provisions of the Development Plan 'unless material considerations indicate otherwise'. Paragraph 11 of the National Planning Policy Framework (NPPF) February 2019 explains that there is a presumption in favour of sustainable development and that means:
- (a) proposals which accord with an up-to-date development plan should be approved without delay; and
- (b) where there are no relevant development plan policies or the policies most important for determining the application are out-of-date, then permission should be granted unless: the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Where the presumption in (b) applies, it is often referred to as the "tilted balance" in favour of the application.

- 5.2 Paragraph 12 goes on to explain that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 5.3 Paragraph 48 explains that authorities may give weight to relevant policies in emerging development plans according to: a) the stage of preparation of the emerging plan; b) the extent to which there are unresolved objections to relevant policies; and c) the degree of consistency of the relevant policies in the emerging plan to this Framework.
- 5.4 The courts have made it clear that for the purposes of section 38(6) it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy in the plan. It is a matter of judgement for your Committee whether the proposal accords with the plan, considered as a whole, bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach.
- 5.5 The NPPF states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three dimensions to sustainable development are: economic, social, and environmental. The Framework states that decision-takers at every level should seek to approve applications for sustainable development where possible.
- 5.6 The NPPF makes it clear that the Government is committed to securing economic growth and productivity in order to create jobs and prosperity. It goes on to state that policies and decisions should recognise and address the specific locational requirements of different sectors as well as enabling the sustainable growth and expansion of all types of business in rural areas.
- 5.7 The NPPF (paragraph 133) makes it clear that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. It also makes it clear that within the Green Belt inappropriate development, which is by definition harmful to the Green Belt, should not be approved except in very special circumstances (paragraph 143).

- 5.8 Paragraph 144 says that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.9 The NPPF (paragraph 146) identifies forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes mineral extraction and engineering operations. Paragraph 134 defines the five purposes the Green Belt serves; to check unrestricted sprawl of large built-up areas; to prevent neighbouring towns from merging; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic town; and to assist in urban regeneration by encouraging the recycling of derelict and other urban land. Paragraph 177 says that the presumption in favour of sustainable development does not apply where a project is likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the project will not adversely affect the integrity of the habitats site.
- 5.10 The NPPF makes it clear that minerals are essential to support sustainable economic growth and our quality of life. It is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy, and goods that the country needs. The NPPF requires existing sites used for processing of minerals to be safeguarded. When determining planning applications for mineral extraction, local planning authorities should: give great weight to the benefits of the mineral extraction, including to the economy; and ensure that there are no unacceptable adverse impacts on the natural and historic environment and human health including the cumulative effect of multiple impacts; and ensure that noise and dust impacts are controlled, etc. It also seeks to provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards. In considering proposals for mineral extraction, minerals planning authorities should, as far as practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas.

Development Plan

- 5.11 The relevant documents against which this application should be considered are the saved policies of the Minerals Local Plan for Warwickshire - February 1995, the policies contained within the adopted Rugby Borough Council Local Plan 2011 -2031 (June 2019) and policies in the Emerging Minerals Plan 2018. In addition, the policies within the National Planning Policy Framework (NPPF) 2019,

are material to the consideration of the application. There are no relevant adopted Neighbourhood Development Plans for the site.

Emerging Plan - Warwickshire Minerals Plan 2018

- 5.12 The emerging Minerals Plan 2018 was submitted for examination in November 2019 and was the subject of a two-day examination in public on 20th and 21st October 2020. While further work is required to justify certain aspects of the plan these are not material to the consideration of this planning application. The policies and supporting text in the plan have been scrutinised and some may be the subject of main modifications in due course for soundness reasons and subject to further public consultation. Where such potential changes may be relevant to the consideration of this application they are reported.
- 5.13 There are a number of Core Strategy and Development Management policies in the emerging plan which are considered to be relevant. Policy MCS 1 sets out the Council's policy on the supply of all economic minerals in the County by maintaining supplies and landbanks. It also states that any planning application for mineral development will be treated on its merits and assessed against all other relevant Development Plan policies.
- 5.14 Policy MCS2 sets out the future supply strategy for sand and gravel requirements which includes ensuring a steady and adequate supply, achieving an annual production rate with existing permitted reserves and new sites, and maintaining an adequate landbank.
- 5.15 Policy DM1 says that mineral development should protect, conserve, and where possible enhance, environmental assets and landscapes by ensuring there are no unacceptable adverse impacts upon the quality and character of the landscape, natural resources, biodiversity, and geodiversity. It also says that any mineral development proposals which would have adverse effects on the integrity of any European site will not be permitted unless there are no alternative solutions, there are imperative reasons of overriding public interest and adequate compensatory measures can be taken. In terms of the *Holohan Case* the reasoned justification for policy DM 1 says that those mineral schemes in hydrological connectivity with the Warwickshire Avon and its tributaries should be suitably designed to consider the implications for eel and incorporate habitat enhancements for migratory fish such as river lamprey, sea lamprey, Atlantic salmon and sea trout. Policy DM2 says that mineral development should seek to conserve, and where appropriate, enhance the significance of affected heritage assets and their settings. DM4 says that planning permission will not be granted which will have unacceptable adverse impacts on local communities or their environment or on the economy either individually or cumulatively with other existing or proposed developments. The policy lists a number of factors to be considered including noise, lighting, dust, flooding, and land drainage. In the case of Noise, Air Quality and Dust

and Visual Intrusion the reasoned justification for the policy requires appropriate assessments to be submitted. In terms of noise, dust, and visual intrusion all these impacts need to be mitigated to an acceptable level.

- 5.16 Policy DM5 requires developers to demonstrate that a proposal facilitates sustainable transportation by considering alternatives to road transport, minimising transportation distances, minimising the production of carbon emissions and where road transport is the only viable method of transportation to demonstrate that there is no unacceptable adverse impact on the safety, capacity and use of the highway network. Demonstrating that there will be no unacceptable adverse impact upon public rights of way is covered by Policy DM 6.
- 5.17 Policy DM7 addresses flooding and water quality and requires that the development will not increase the risk of flooding and that ancillary activities such as for processing are not located in the functional floodplain. The policy also requires site specific flood risk assessments to be submitted in support of certain proposals such as this proposal. Proposals which have an unacceptable adverse impact on water quality will not be permitted. Ensuring that there will be no unacceptable adverse impact on aviation safety is covered by Policy DM 8. Appropriate mitigation measures may need to be identified which may include a Bird Hazard Management Scheme (BHMS).
- 5.18 Proposals need to make satisfactory provision for high quality restoration and that the site will be reclaimed at the earliest opportunity according to Policy DM9. The policy allows the delivery of additional restoration benefits to be taken into account such as net gains in biodiversity. Policy DM11 says that mineral development which reduces overall carbon emissions and improves resource efficiency will be supported. Policy DM12 provides for adverse impacts to be considered against a mitigation hierarchy where the highest level is avoidance. Overall then the emerging Minerals Plan can be given moderate weight in determining these proposals.

Minerals Local Plan 1995

- 5.19 Policy M1 of the Minerals Local Plan (saved policy) states that planning permission will normally only be given for sand and gravel extraction within Areas of Search and Preferred Areas. The application site is not identified within the Minerals Local Plan as either an Area of Search or a Preferred Area for future mineral extraction.
- 5.20 Policy M6 requires the proposal to be assessed for impact on a range of factors including operational and economic need, physical restraints such as impact on biodiversity, heritage and landscape character and other considerations such as transport and against policy considerations such as designated green belt.

- 5.21 Policy M7 seeks to ensure that any adverse environmental effects on residents that may arise from mineral workings are mitigated against using planning conditions and legal agreements. Paragraph d) says that proposals for operations ancillary or secondary will normally be expected to be sited adjacent to primary plant. The use of plant, machinery and buildings will be restricted to processes principally using minerals produced from the site. Where appropriate, conditions may be imposed, or agreements sought to control the life span of operations ancillary or secondary to mineral extraction.
- 5.22 Policy M9 requires mineral workings to be restored to a high standard and a beneficial after use.

Adopted Rugby Borough Council Local Plan 2011 -2031 (June 2019).

- 5.23 There are a number of policies in the adopted local plan which are considered relevant when considering this application and they are outlined in the following paragraphs.
- 5.24 Policy GP1 – Securing Sustainable Development – a positive approach will be taken to securing sustainable development and Policy GP 2 – Settlement Hierarchy – identifies the villages of Ryton and Wolston as Main Rural Settlements. Policy HS 5 – Traffic Generation and Air Quality, Noise and Vibration says that developments should promote a shift to the use of more sustainable modes of transport and low emission vehicles to minimise the impact on air quality, noise and vibration from traffic generation. Neither Ryton nor Wolston are in an Air Quality Management Area.
- 5.25 According to Policy NE 1 – Protecting Designated Biodiversity and Geodiversity Assets - designated areas and species of international, national, and local importance will be protected. Development will be expected to deliver a net gain in biodiversity.
- 5.26 Policy NE 3 – Landscape Protection and Enhancement – requires the development to be designed into the landscape, to consider its landscape context, relate well to local topography and enhance key landscape features, identify visual impacts and take steps to reduce those impacts, either conserve, protect or restore important landscape features, address the importance of habitat biodiversity features, and sensitive to an area’s capacity to change.
- 5.27 Policy SDC 1 – Sustainable Design – says that proposals for new development will ensure that the living conditions of existing and future neighbouring occupiers are safeguarded. Policy SDC 2 - Landscaping requires site features to have been identified, the landscape character to be retained and enhanced where possible, for new planting to comprise native species, and for perimeter planting to be conducted to minimise intrusion on neighbouring uses, and for the detailed

management and maintenance of landscape features. Policy SDC 3 – Protecting and Enhancing the Historic Environment - Development affecting the significance of a designated or non-designated heritage asset and its setting will be expected to preserve or enhance its significance. Any harm to the significance of a designated heritage asset must be justified. Where a development will lead to less than substantial harm to the significance of a designated heritage asset, this will be weighed against the public benefits of the proposal.

- 5.28 Policy SDC 5 – Flood Risk Management – requires development to not increase flooding risk elsewhere, and most vulnerable development is located in areas of lowest risk. Land required for flood management will be safeguarded and proposals should be accompanied by a Site-specific Flood Risk Assessment. Policy SDC 7 - Protection of the Water Environment and Water Supply – says that development will not be permitted where proposals have a negative impact on water quality.
- 5.29 Policy D1 – Transport – says that development will be permitted where sustainable modes of transport are prioritised, and measures designed to mitigate transport impacts arising from either individual development proposals or cumulative impacts caused by a number of proposals are provided. Policy D5: Airport Flightpath Safeguarding – says that the Coventry airport flight paths and the Daventry (Pailton) radio technical site will be safeguarded, in accordance with the requirements of the civil aviation authority.

Legal Responsibilities

- 5.30 The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 requires Local Planning Authorities to agree with the applicant the text of any pre-commencement conditions, prior to the determination of any application.
- 5.31 Under the provisions of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 as amended, the Local Planning Authority as the competent authority, must carry out a formal assessment if a proposal is likely to have a significant effect on certain sites of international importance for the protection of habitats and species. In this case, the potential effect on the Severn Estuary Special Area of Conservation, Special Protection Area and RAMSAR site requires consideration, and this is dealt with in more detail later in the report.
- 5.32 S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on Local Planning Authorities to have regard to the desirability of preserving listed buildings or their settings or any features of archaeological importance.

- 5.33 There is a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 for the authority when exercising its functions to have regard to the purpose of conserving biodiversity.

6. Assessment and Observations

Location

- 6.1 Wolston Quarry is located between the villages of Ryton-on-Dunsmore to the west and Wolston to the east and is partially bounded by Wolston Lane (B4029) to the south east and the River Avon to the west and immediately to the north of the A45(T) London Road. The planning application site lies wholly within the central part of the existing quarry. The quarry covers an area of approximately 84.7 hectares, but this application covers an area of 7.9ha of which the plant site area is 1.9ha and the settlement lagoons 3.8ha with the remainder being the internal haul road and access and weighbridge.
- 6.2 The land across the quarry ranges in height from between 80 metres above ordnance datum (AOD) down to 66 metres AOD with the western most part of the site within the flood plain of the River Avon. The proposed plant site lies at about 66 metres AOD but outside the floodplain.
- 6.3 The proposed plant site and settlement lagoons lie to the south and north respectively of the Wolston Sewage Treatment Works. The plant site is separated from the Sewage works by an existing Public Right of Way R144 and the access to the Works which is also a PROW R 144d and this lies immediately to the west of the plant site. There are established field hedges of varying heights of between 8-10m which are made up of native species as well as several mature trees around the plant site. The plant site itself is devoid of mineral resources and comprises mainly agricultural grassland (a mixture of Grades 3a and 3b) which has not been subject to previous soil stripping and/or soil storage and the main site haul road. The land south of the haul road is currently used as a horse paddock.
- 6.4 The proposed settlement lagoons lie 130 m to the north of the plant site within Phase 5 and would be connected by 8 m wide corridor of land crossing a short section of PROW R144 where the silt/water pipes would be installed. The creation of settlement ponds with edge protection bunds some time ago in Phases 5A and 5C means that part of the silting proposal has already been constructed. However, the ponds would need to be extended and altered to make them suitable for silting purposes and for accommodating clean water supplies to be pumped back to the plant site for processing. A second silt lagoon would be provided in the adjacent field to the north in Phase 5B which has been recently soil stripped.

- 6.5 The existing access lies at the south western end of the site and is over 500m from the junction of Wolston Lane and A45 (T). From the access/road junction there is an initial concrete section of access road up to and beyond the existing wheel wash and site offices which also provides spaces for car parking. The proposed floor mounted weighbridge no more than 1m high would be sited on this concrete section to the south of the wheel wash. An existing unbound haul road connects the workings to the site access road. Access to the proposed plant site would be via the existing access and the first 510 metres of the haul road.
- 6.6 Ryton Organic Garden now Organic Garden is located to the south of the application site (160 m) on the southern side of Wolston Lane. Fields House lies 530 m to the east of the application site and further east at 690 m lies the western edge of Wolston Village. Ryton Fields Farm including two other businesses lies 100m to the east of the existing access road.
- 6.7 To the north of the site immediately beyond the Sewage Works and the River Avon, lies the Brandon Wood Golf course. The Brandon Marshes nature reserve is located beyond the golf course within 1 km to the north and west of the site. This reserve which has been created on a former sand and gravel quarry site is a designated SSSI and a tourist attraction.

Policy Considerations

Need for the Processing Facility

- 6.8 In paragraph 1.13 above the applicant has made a case for the need to site a processing plant at Wolston Fields. The case revolves around a lack of certainty about extending the existing lease arrangements at Bubbenhall and hence the need to find a temporary alternative facility which will allow the company to continue to access processed sand and gravel and produce concrete aggregates their main business activity in the locality. According to the company there are no other alternatives and the Wolston site best meets their operational criteria.
- 6.9 The company operates one permitted quarry and a separate processing facility which serve several concrete batching plants some in the county and the rest outside. Your Officers are not aware of any other land that the company could use at short notice to process the material at Wolston. Their points about the difficulties of accessing and using separate/remote industrial sites is well made. There are two other operators in the county, but their sites are restricted to using on site materials and in the case of Brinklow subject to restrictions on lorry movements. The idea of operators sharing processing facilities may appear attractive, but it is usually dependent upon commercial considerations and is not one that the Council can require through the

planning process particularly if there are planning proposals that on their merits may be capable of being approved.

- 6.10 Based on the information that the applicant has given the Council then your Officers believe that there is a need for the plant to be at this location.
- 6.11 Moreover, Members need to bear in mind that in the emerging minerals plan Wolston Fields is referred to in the plan as an “existing” sand and gravel site and therefore contributes to the existing landbank of permitted reserves and the reserves relied upon in the emerging plan to determine future supplies of sand and gravel in the county. It is one of only three active sand and gravel extraction sites in the county and forms part of the productive capacity in the authority’s area available to respond to present and future demand.
- 6.12 Moreover, in 2019 Members accepted the case to allow further material to be extracted from Wolston and agreed extensions of time for quarrying and the use of the plant site at Bubbenhall. At that time the case was that there is a demonstrated economic need for the sand and gravel as the operator is an established player in the local and regional market and is currently selling mineral from the site at a consistent rate. The 2019 proposal would ensure supply to the market continues. This site is an existing mineral site and provides supplies of sand and gravel.
- 6.13 Together with the current processing plant at Bubbenhall it forms part of the Council’s supply strategy to meet present and future demand for construction materials. The proposal would contribute to the local construction market and as such the local economy, as well as providing some direct employment at the site. Policy M7 d) in the 1995 Minerals Plan says that “Proposals for operations ancillary or secondary to mineral extraction will normally be expected to be sited adjacent to primary plant. The use of plant, machinery and buildings will be restricted to processes principally using minerals produced from the site. Where appropriate, conditions may be imposed, or agreements sought to control the life span of operations ancillary or secondary to mineral extraction.” The first part of the policy is usually aimed at concrete batching plants, bagging plants and asphalt plants and their connection with the processing plant so may not apply here. But certainly, the proposed plant would be processing minerals from the existing site and not those imported from elsewhere. To that degree the proposals are in conformity with the policy and should be afforded some weight.

Green Belt issues

- 6.14 Paragraphs 5.7 - 5.9 above explain the national planning policy position in the NPPF on developments in the Green Belts. The starting point is to consider whether the various elements of the proposal (weighbridge, haul road, processing plant and silting arrangements and screen bunds) would be appropriate development in the Green Belt. Paragraph 146 confirms that mineral extraction and engineering operations are not considered to be inappropriate development in the Green Belt provided that they preserve openness and do not conflict with the purposes of including land within it. Set out below is an assessment of whether the various elements fall within the definitions in paragraph 146. The conclusions are that the weighbridge, haul road and screen bunds are appropriate development because they are either ancillary to mineral extraction or they are engineering operations and they preserve openness and do not conflict with the Green Belt purposes. However, it is concluded that the processing plant and silting arrangements are inappropriate development. Therefore, the conclusions on appropriateness are followed by an assessment of the harm caused to the Green Belt by the processing plant and silting arrangements and whether that harm, and any other harm, is outweighed by any very special circumstances.
- 6.15 All these assessments are informed by consideration of impact on the openness of the Green Belt and whether there is conflict with the five Green Belt purposes. Openness can be assessed in terms of a number of factors including spatial, visual, duration, remediability and degree of activity. The five purposes the Green Belt serves are to check unrestricted sprawl of large built-up areas; to prevent neighbouring towns from merging; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic town; and to assist in urban regeneration by encouraging the recycling of derelict and other urban land.

Weighbridge

- 6.16 The proposals include the installation of a floor mounted weighbridge no more than 1m in height within the concrete access track to the site to weigh the vehicles carrying the processed material as they leave the site for the market. This would be a portable piece of equipment to be installed which is needed for road safety, tax collection purposes and accurate measurements. The Council collects data on sales from mineral sites and vehicle movements to plan for future supplies and to enforce planning conditions to control vehicle numbers. The present weighbridge used by the applicant is based at Bubbenhall. It would not seem sensible if processing is allowed at Wolston to require all HGV vehicles on leaving the site to travel to Bubbenhall simply to be weighed before the processed material goes to market. This would increase traffic movements which is not sustainable and would increase carbon emissions contrary to climate change.

- 6.17 A weighbridge ordinarily would be associated with both extraction and processing of minerals from a minerals site. It is small piece of equipment located near the entrance to a site and would be required for a very limited period. It would be removed along with the access as the last part of the approved restoration of the site. The entrance to the site and its associated access track and site office are already permitted and have therefore been found not to be inappropriate development in the Green Belt. This small change would not have any discernible spatial or visual impacts, would be required for a limited period, and would be removed on restoration of the site. The level of activity at the site entrance has already been accepted twice by the Council and therefore it is considered to be appropriate development (mineral extraction and/or an engineering operation) which will preserve the openness of the Green Belt. For reasons explained below, it is also considered that the weighbridge does not conflict with the Green Belt purposes.

Haul Road

- 6.18 The proposals include the continued use of a haul road from the entrance to the site to the proposed processing plant. The 5m wide haul road within a wider red line corridor of 9m would measure 510 metres from the entrance to the proposed processing area and would pass through the processing area and onto the excavation areas to the east. The haul road route is slightly different to that permitted in 2012 reflecting operational changes made during the life of the site. However, it would continue to be unbound and reliant on regular supplies of bound materials to be provided to maintain a good surface over which vehicles can travel. The haul road passes through land previously restored (Phases 1-3), and land to be stripped of soils and provides access to current and future excavations and areas to be infilled and land to be restored and managed.
- 6.19 A haul road would normally be associated with extraction of minerals from a minerals site. It is a long stretch of narrow development appearing not dissimilar to a farm track which would be removed along with the access as the last part of the approved restoration of the site. The Council have previously permitted the use of a haul road across the site to transport materials from excavation areas to the entrance and to deliver materials for infilling prior to restoration. In this respect there would be no change and therefore would not be inappropriate development in the Green Belt. The haul road is located well away from Wolston Lane, is well established in the local landscape, and due to its narrow footprint and that it is surrounded by restored land would not have any harmful spatial or visual impacts. It would also be required for a limited period and would be removed on restoration of the site. The level of activity at the site has already been accepted twice by the Council and therefore it is considered to be appropriate development (mineral extraction and/or an engineering operation) which will preserve the openness of the Green Belt. For reasons which

are explained below, it is also considered that the haul road does not conflict with the Green Belt purposes.

Screen Bunds

- 6.20 Part of the proposals for the processing plant is the erection of a continuous screen bund to the south of the plant to provide for visual, noise and dust mitigation and on-site soil storage. The bund would be 3m high and 293 m long and would have a base of between 6.5 -30m and would be constructed using soils from the proposed plant site. Except for where the haul road passes through the plant site itself is surrounded by existing high mature hedgerows limiting the views of the bund to users of the existing footpaths. The screen bund would be located well away from Wolston Lane, would be well screened, and have a generally narrow footprint and therefore would not have any harmful spatial or visual impacts. Any impact on openness would be outweighed by the positive impact upon visual and environmental amenity that the bund would provide. It would also be required for a limited period and would be removed on restoration of the site. After initial construction and future removal for restoration the level of activity associated with the bund would be minimal. Finally, as the Council have previously accepted that the construction of a flat-topped soil and overburden mound on the whole of the processing plant area is acceptable and not inappropriate development this screen bund is considered to be acceptable and would preserve the openness of the Green Belt.
- 6.21 There are also screening bunds which have been erected along Wolston Lane when operations commenced in 2014, which are relatively low level and only noticeable from the highway itself and not from long range views. These bunds are a necessary screening mechanism while operations are ongoing at the site, and any impact on openness is outweighed by the positive impact upon visual and environmental amenity that they provide. Furthermore, the bunds are proposed to be removed and the material used in the final restoration of the site, thus maintaining the long-term openness of the Green Belt. These bunds have been previously accepted by the Council as not being inappropriate development in the Green Belt. For reasons which are explained next, it is also considered that the screening bunds do not conflict with the Green Belt purposes.

Purposes of the Green Belt

6.22 In terms of the five purposes of including land within the Green Belt set out in paragraph 134 a) – e) in the NPPF the various elements (both the appropriate and the inappropriate elements) of the development would not individually or cumulatively be in conflict because: -

- a) The proposed use is temporary, and the site is not in close proximity to any large built-up areas.
- b) The site does not adjoin any towns and is adequately detached from the nearest settlements of Wolston and Ryton.
- c) the proposals would not lead to any permanent encroachment of the countryside. It is a temporary scheme, and the area of disturbance is no greater than already permitted. The changes which the proposed development will result in are reversible. There would be no change to the landform and the site would be adequately screened by existing vegetation. Planning conditions can be imposed to support the mitigation measures included in the application.
- d) The proposals would not affect any historic towns.
- e) The proposals would not hinder the ability to assist in urban regeneration. The products produced following processing of the on-site materials would supply the applicant's established local markets and would be expected to assist with urban regeneration.

Accordingly, the weighbridge, haul roads and bunds are considered to be appropriate development because they are engineering/ancillary facilities which preserve openness and do not conflict with the purposes of including land in the Green Belt.

Mineral Processing and Silting Arrangements

6.23 The mineral processing proposals include the erection and installation of plant, machinery and equipment and associated structures and stockpiles and the erection of 293 metres of screen bunding together with a lorry turning area. The silt lagoon area includes three lagoons and two pipes. The silting arrangements are directly related to the operation of the processing plant and not to mineral extraction.

6.24 The applicant has advanced a case that mineral processing should be considered as falling within the words "mineral extraction" for the purposes of paragraph 146 and therefore it is not inappropriate development. This is based on an interpretation of several Court case rulings. The Court Cases are:

- *Europa Oil and Gas Ltd v Leith Hill Action Group (2014) UKCA*
- *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) (2020) UKSC3*

- 6.25 The *Europa* case deals with whether “mineral exploration” falls under the heading of “mineral extraction” for the purposes of paragraph 146 of the NPPF. The High Court judge said that it did, and the Court of Appeal agreed with him. The High Court judgement in this case is interesting in that the Judge commented on several matters concerning minerals and the Green Belt. He said that the NPPF deals generally with mineral extraction and is not confined to particular types of mineral (paragraph 40). He also said, “some level of operational development for mineral extraction, sufficiently significant as operational development to require planning permission has to be appropriate and necessarily in the Green Belt” (paragraph 65). He also added “Extraction is generally not devoid of structures, engineering works and associated buildings.” It is these comments that the applicant relies upon.
- 6.26 In the *Samuel Smith* case, which has been decided by the Supreme Court the issue concerned openness and visual impacts and whether it is an implicit requirement of paragraph 90 (now 146) concerning openness to take into account visual impact. The Court held that it was not and in that particular case it was neither a material factor. The Judges looked at Green Belt, its history and aims (paragraph 5) and found that “It is clear that the visual quality of the landscape is not in itself an essential part of the “openness” for which the Green Belt is protected.” They also said that “the matters relevant to openness in any particular case are a matter of planning judgement, not law.” (paragraph 39).
- 6.27 The latest case *Haden* (which deals with the proposed Shipley Quarry in Shropshire) considered whether the Council had erred in law in relation to the Green Belt and whether the Officer Report had dealt with two matters correctly. These were first the question of preservation and specific localised impacts and second whether the proposed screening measures might have a harmful effect on the openness of the Green Belt. The High Court judgement (paragraph 59) said that “The Council’s decision was based on the planning judgement of an officer with 30 years’ experience and previous knowledge of matters such as landscaping bunds and tree screening for mineral excavations. It was entitled to conclude that the impact of the proposals on the openness of the Green Belt would not be harmful when not widespread.” The applicant also relies on this aspect arguing that if the Officer in the Shropshire case could come to a conclusion that “the quarrying proposals would not comprise inappropriate development” based on a scheme that was greater in extent and nature than the proposals before the Committee then the proposed mineral processing plant at Wolston should be accepted as appropriate development in the Green Belt.

- 6.28 In the opinion of your Officers none of these cases clearly defines that “mineral processing” falls within the mineral extraction proviso set out in paragraph 146 and that therefore as a matter of principle it is appropriate development in the Green Belt. The *Europa* case deals with “mineral exploration” which is a precursor to mineral extraction and while comments made by the High Court Judge in his reasoning suggest that other forms of mineral development may be covered within the Green Belt, these matters are not dealt with specifically and are not referred to in the latest national planning practice guidance which accompanies the NPPF and postdates the Court case.
- 6.29 Furthermore, discussions at the recent Worcestershire Minerals Plan EIP about mineral policy in the Green Belt suggest that mineral processing is not covered by the provisos set out in paragraph 146. The *Samuel Smith* case deals with the matter of whether visual impact expressly or implicitly forms part of an analysis of openness rather than whether mineral processing forms of mineral extraction and as such does not offer any further assistance. The *Haden* case helps to the degree that the individual elements of a development proposal should be considered separately in the Officers Report but as for the principle of mineral processing in the Green Belt it is silent. Even though the full Officer report was before the Court and the judgement at paragraph 4 in setting out the facts included the phrase “static wash plant and mobile mineral processing plant” this particular aspect of the proposed development in the Green Belt was not part of the submission to the Court so it was not challenged or debated.
- 6.30 An examination of recent cases (all before either the *Samuel Smith* or *Haden* cases) considered by the Council concerning processing plant proposals in the Green Belt on existing mineral sites does not provide any evidence that mineral processing should be considered as being part of the mineral extraction proviso.
- 6.31 Unfortunately, none of these cases considers the late introduction of processing plant onto an existing site. The nearest example is the case of Bubbenhall where in 2019 the Council decided that the retention of the existing plant for a further two years was inappropriate development but there were very special circumstances that outweighed the harm caused to the Green Belt. In conclusion therefore and in the absence of clear guidance to the contrary each case needs to be considered separately based on the facts and planning judgement.
- 6.32 In this case the proposed plant would be dealing with “extracted” material and not extraction per se and “silting” is a direct result (a consequence) of the processing and not the extraction even though it is reusing the excavated void. It is also more than an engineering operation since it includes the erection and installation of plant, machinery and equipment and associated structures and stockpiles and the erection of 293 metres of screen bunding together with a lorry

turning area. The silt lagoon area includes three lagoons and two underground pipes. Even though it is proposed to be carried out for a temporary period processing will involve 150,000 tonnes of material each year passing through the plant and up to 45,000 tonnes of silt be deposited in Phase 5. The plant will screen and wash the excavated material and then separate out and stockpile the various products (sands and gravels) each working day prior to their removal by HGV to market.

- 6.33 The applicant has also drawn attention to the availability of permitted development rights (Part 17 Class A – The Town and Country Planning (General Permitted Development) (England) Order 2015) to erect plant on land used as a mine. The existence of PD Rights is not removed by Green Belt designation so obviously some form of mineral development is considered acceptable in the Green Belt according to planning legislation. While that it is true in the case of Wolston the land proposed for the plant does lie within the existing site boundary, the original permission removed the Part 17 rights (Condition 50 in 2014 and 47 in 2020) in any event. Moreover, had Part 17 been a factor in your officers' opinion it would not have applied because the external appearance of the mine would have been materially affected (Class A.1, (c)). Taking all these matters into account it is your Officer's opinion that the erection of the processing plant and associated silting arrangements is inappropriate development in the Green Belt.

Harm and Very Special Circumstances

- 6.34 The proposed processing plant and silting arrangements are inappropriate development. Therefore, it is necessary to assess the nature and degree of harm to the Green Belt and whether that harm, and any other harm, is outweighed by very special circumstances.
- 6.35 Substantial weight must be given to the "policy harm" that is deemed to be caused by reason of inappropriateness. However, it is also necessary to assess the nature and extent of any "actual harm" to the openness of the Green Belt and its purposes caused by the inappropriate development.
- 6.36 The actual harm to openness, however, is considered to be limited because the actual footprint of the plant site is 0.2ha out of a field size of 1.9ha which makes the plant about a tenth of the field in spatial terms. In visual terms due to the tall hedges around the processing plant site, proposed and existing screening bunds, the height of the plant (6.5m) and the lack of views from the two public footpaths to the north and west of the site and the temporary nature of the proposals there would be little or no visual impact. In the light of these comments and the fact that the Council has previously accepted the construction of a flat-topped soil and overburden mound on the whole of the processing plant area is acceptable these proposals are considered acceptable in visual terms. Once the permitted reserves have been

processed the plant site will be decommissioned, and the soils from the screen bund removed and respread over the former field to allow the area to be restored to agriculture its previous use and levels.

- 6.37 For the reasons given in the section on “Green Belt Purposes” above, there is considered to be no harm by reason of conflict with the purposes of the Green Belt from any of the elements of the development. The remaining part of this report concludes that (with appropriate conditions and obligations) the development would not conflict with any other planning policies or cause any other significant harm.
- 6.38 So far as there is harm, it is considered that there are very special circumstances which outweigh it: -
- This is an existing permitted site, and the proposals would fall wholly within its permitted boundary.
 - The proposed plant would be located on land which has already been permitted for operations which are ancillary to the permitted mineral extraction namely the storage of overburden and soils.
 - The proposed plant would only use minerals extracted from the permitted site.
 - The proposed development would be carried out and completed within a temporary period of three years:
 - The erection and operation of the processing plant would maximise the use of valuable mineral resources in the county for which planning approval has been supported by Members twice in 2014 and 2019.

Amenity Issues (noise, dust, air quality, public health, and visual intrusion)

- 6.39 The operation of mineral sites by their very nature can cause adverse impacts on amenity. This is generally by way of dust generation, noise, and impact on air quality by way of vehicle movements and visual intrusion.
- 6.40 These proposals include the introduction of a new noise source at the site the operation of the processing plant. Revised proposals together with a revised Noise Impact Assessment was carried out and submitted by the applicant in accordance with policy DM 4 and this concluded that subject to the mitigation measures set out in the existing planning conditions (Conditions 9, 27,28,29,30 and 32,) and the erection of the 3m high screening bund in close proximity to the proposed plant the noise limits set out in planning permission RBC/19CM005 can be met at each sensitive receptor.
- 6.41 The Assessment report has been considered by the Borough Council’s Environmental Health Officer and the EHO has no objection to the proposals subject to conditions requiring the provision of acoustic

housings/shrouding around noise generating parts of the proposed plant and treating the loading hopper. These mitigation measures would be in addition to the existing planning conditions which in relation to noise include stipulations that plant and machinery must be fitted with effective silencers; reversing alarms on vehicles should be of the bell tone or directional type, in addition to setting limits on the overall noise levels when monitored at sensitive receptors within 150m of the site. With these mitigation measures in place the operation of the processing plant would not lead to any unacceptable adverse impacts in that noise would be mitigated to an acceptable level and the EHO required measures would remove noise at source so the proposals would be in conformity with policies HS5, SDC1, M6 and DM 4.

- 6.42 In terms of air quality and dust the applicant has submitted an Air Quality Impact Assessment to comply with the reasoned justification now set out in relation to policy DM 4. This assessment has been considered by the Boroughs Environmental Health Officer and the EHO has commented that there is a potential impact from dust (including PM10 and PM2.5 fractions in addition to respirable crystalline silica) from the proposed development. However, the site is not located within an Air Quality Management Area, the plant would be dealing with wet material not likely to result in the release of particulate matter into the air except what is described as “trivial” in national guidance, and there is already dust monitoring and mitigation controls written into the existing planning permission which should be retained. On this basis the EHO does not recommend any additional planning conditions be imposed and recommends that the assessment report be accepted. In the light of these comments, it is considered that the proposals are in compliance with policies HS5, SDC1, M6 and DM 4 and are therefore acceptable.
- 6.43 The various elements of the proposals have the potential to create visual impacts. The weighbridge is a small piece of equipment located near the entrance to the site and would be required for a very limited period. It would be removed along with the access as the last part of the approved restoration of the site. The entrance to the site and its associated access track and site office are already permitted. This small change would not have any discernible visual impacts, would be required for a limited period, and would be removed on restoration of the site.
- 6.44 The haul road is located well away from Wolston Lane, would be required for a limited period, would be removed on restoration of the site and is well established in the local landscape, has a narrow footprint and is surrounded by restored land and therefore would have negligible visual impacts.
- 6.45 The silting arrangements which involve the disposal of silt in water into two of the worked out voids using plastic pipes, the gradual deposition of silt and the recirculation of clean water would have little or no visual

impact due to the lack of visibility and views, their temporary nature and the lack of discernible change with existing permitted operations. The silt lagoon area would then be restored in accordance with existing approved restoration scheme.

- 6.46 The mineral processing proposals include the erection and installation of plant, machinery and equipment and associated structures and stockpiles and the erection of 293 metres of screen bunding together with a lorry turning area. These elements all lie to the south of the existing haul road which passes through the site. The applicant has submitted a Landscape and Visual Impact Assessment report on the landscape and visual impacts of erecting the processing plant. The report concludes on visual matters that due to the tall hedges around the processing plant site, proposed and existing screening bunds, the height of the plant (6.5m) and the lack of views from the two public footpaths to the north and west of the site and the temporary nature of the proposals there would be little or no visual impact. The report has been considered by the Boroughs Landscaping Officer who has raised no objection. The Council's Landscaping Officer recognises that any visual impact would be temporary and that views into the site from Wolston Lane and Garden Organic would be negligible. Views from the two public footpaths around the site would also be negligible. In the light of these comments and the fact that the Council has previously accepted the construction of a flat-topped soil and overburden mound on the whole of the processing plant area is acceptable these proposals are considered acceptable in visual terms and therefore in compliance with policies SDC1, SDC 2, NE 3, M6 and DM 4.

Environmental and Climate Change Issues (landscape, biodiversity, carbon emissions, aviation safeguarding, flooding, and water quality)

Landscape

- 6.47 The applicant's Landscape and Visual Impact Assessment report concludes on landscape matters that due to the enclosed nature of the proposed site, its small size, the temporary duration and that the site would be restored to its former agricultural use the proposed plant and silting arrangements would have a minimal effect on local landscape character. The report has been considered by the Boroughs Landscaping Officer who has raised no objection. The Council's Landscaping Officer recognises that large scale hedged fields are a key visual element in the Dunsmore Plateau Fringe landscape and a majority of the field hedgerows have been retained under the existing planning permission. The hedgerows around the site would be retained and the impact upon the landscape character would be temporary. There are no objections on landscape grounds, so the proposals are in accordance with policies SDC2, NE3, M6 and DM 1.

Biodiversity

- 6.48 Ecology Services have considered the Preliminary Ecological Assessment and Biodiversity Impact Assessment and calculation submitted by the applicants and are satisfied with the 17.84 units of biodiversity gain set out in the documentation. To secure the delivery of the units they require a Landscape and Ecological Management Plan incorporating a maintenance and management plan to be submitted via a planning condition. They also require a planning condition requiring the submission of a Construction and Environmental Management Plan to secure the necessary checks for protected species and walkover surveys to be carried out based on the applicant's documentation. With the imposition of these conditions the proposals are considered to be acceptable and in accordance with policies M6, DM1 and NE 1.

Habitats Regulations Assessment (HRA)

- 6.49 The recent judgement (Case C-461/17 Holohan v An Bord Pleanala 7/11/18) highlighted the importance of consideration, as part of EIA and HRA, of potential implications for habitat types and species outside the boundaries of European designated sites, those implications being liable to affect the conservation of the site. The affected species are migratory fish including Atlantic salmon, Sea trout, Allis shad, Twaithe shad, Sea lamprey, River lamprey and European eel. Warwickshire lies 60kms upstream of the Severn Estuary Special Area of Conservation, Special Protection Area and RAMSAR site but is hydrologically linked to the designated site through the River Avon. The Wolston site lies within the Avon valley and the river is about 30m from the site boundary at its nearest point. The Council must therefore consider if the proposals might affect the migratory fish species entering the River Avon and its tributaries from the River Severn downstream.
- 6.50 European sites are protected by the Conservation of Habitats and Species Regulations 2017. Before approving a project, the regulations require the County Council as a competent authority to carry out a habitats regulations assessment (HRA) to test if the project could significantly harm the designated features of a European site. There is a process to go through which starts with screening the project to see if it might affect a site, then carry out an appropriate assessment if there is a likelihood of significant effects or there is not enough evidence to rule out a risk. The appropriate assessment stage tests whether an adverse effect on the integrity of the site can be ruled out or not. At this stage mitigation measures can be considered. If a proposal fails, the integrity test then unless the 3 stage exceptions test is passed the Council must reject the proposals and not grant planning permission.
- 6.51 Officers have screened all the elements of the scheme in accordance with government guidance and have determined that only the silting arrangements might affect the River Avon since they are hydrologically connected even though the site is subject of regulated

consents and existing permits from the Environment Agency. In the case of the other elements, they were not hydrologically connected and/or were some distance away from the river. The fact that the site has been operating since 2015 and many elements have been carried out and completed and it is nearing the end of its life were also considered.

- 6.52 WCC has also taken into consideration other relevant permissions within the Warwickshire Avon and their potential impacts within their existing consents to evaluate any cumulative impacts. These cumulative impacts being appraised in the ongoing Habitat Regulations Assessment associated with the Minerals Plan.
- 6.53 An appropriate assessment of the silting arrangements found that this element would not have an adverse effect on the integrity of the European site due to the existing operational controls in place, the design of the silting scheme and mitigation measures. To secure these measures planning conditions could be imposed if planning permission was granted. These conditions will also have been developed in consultation with the Environment Agency.

Carbon Emissions

- 6.54 Policy DM11 says that mineral development that reduces overall carbon emissions and improves efficiency during construction, operation and restoration will be supported. Policy DM5 says that developers must demonstrate that a proposal minimises transportation distances and the production of carbon emissions. The applicant claims that the proposals would reduce vehicle mileage by 50,000 kms and this would lead to a reduction in fuel consumption and carbon emissions over the short life of the scheme. The bulk of the figure arises from no longer hauling silt from Wolston to Bubbenhall for processing and the remainder from shorter trips to the company's markets in Rugby and Coventry east areas. The claim appears reasonable and would demonstrate the reductions policies DM 5 and DM11 are seeking to achieve and a commitment to adapting to climate change.

Aviation Safeguarding

- 6.55 The safe operation of Coventry Airport was considered in detail in 2013 when the original planning permission was granted for the existing site. The applicants advise that they agreed not to create any large bodies of permanent open water at Wolston because of the proximity of the airport. They also left hedges across Phase 5 to split the phase into smaller water bodies to discourage large flocks of birds from gathering. The permission was the subject of a condition requiring compliance with an approved bird hazard management plan. When Members considered the existing site in 2019 no issues were raised on this matter and the existing condition was retained even though at that time there was a settlement lagoon in place. Since there is an existing bird

hazard management plan in place which is there to address any problems and the proposal is for a limited period the proposals are considered acceptable and in compliance with policies D5 and DM8.

Flood Risk

- 6.56 Impacts on flood risk and water quality were assessed as part of the 2012 and 2019 planning application processes and deemed acceptable. However, this proposal introduces a number of new elements which could have an impact on flooding and water quality in particular the erection of the processing plant and screening bund and introduction silting arrangements into permitted excavations. The applicant has submitted a Flood Risk Assessment and further information to satisfy the Lead Local Flood Authority and the Environment Agency that the proposal would not have a detrimental impact on flooding and water quality. There are therefore no objections from both the LLFA and the Environment Agency subject to the operator continuing to operate under the current planning permission and all of its conditions, updated environmental permits and construction & environmental management plan and imposition of a further planning condition to deal with a maintenance plan for the surface water systems.
- 6.57 Any water discharged from the site is done so under a discharge license issued by the Environment Agency. The restoration scheme for the existing site includes elements such as water features, wet woodland and grassland which have been included in order to achieve a biodiversity gain on site once restoration is complete. Conditions relating to water management and restoration should be retained on any permission members may be minded to grant so that the proposals are in accordance with policies M6, DM7 and SDC 5 and 7.

Heritage

- 6.58 The impact of the proposals, in particular the processing plant, on the settings of the following heritage assets has been assessed in line with Historic England's advice:
- Ryton House Park Garden (Grade II listed building) 900m to the south west.
 - Prehistoric pit alignments and associated features 160m north of The Barbellows (Scheduled Ancient Monument) 470m to the east.
 - Knightlow Cross and Mound (Scheduled Ancient Monument and Grade II listed building) 1.1kms to the south east.
 - Wolston Conservation Area 860m to the north west.
- 6.59 Due to the level of vegetation around the site giving restricted views, intervening features, topography, the proposal involves changes of use within an existing site and is for a temporary period and the land would be restored back to previous uses the proposals would not harm any of

the above heritage assets and therefore is in accordance with policies M6 and DM2.

- 6.60 In terms of archaeology the site excavations are currently ongoing on site and any finds are being recorded. The development would be carried out in accordance with the approved programme of archaeological works. A condition to this affect could be replicated upon any approval the committee may be minded to grant.

Highways

- 6.61 These proposals change the number of loads per day at the site. Since the site opened in 2014/15 unprocessed material has been excavated and taken to Bubbenhall for processing before being sold to the market and inert wastes have been brought in for infilling and restoration. The number of lorry loads at that time were 4 per hour (40 a day) for infilling and 4 per hour (40 a day) for off-site processing.
- 6.62 Now, material would be excavated and processed on site before it is sold to the market and the resultant silt would be returned to the void to help with restoration. This change would result in a reduction in the number of loads from 40 to 35 each working day. There would be no change to the infilling arrangements.
- 6.63 The Highway Authority has no objection subject to the imposition of the existing highway related conditions and continued compliance with the existing and varied S106 HGV routing agreement. This agreement ensures that HGVs servicing the site have restrictions placed upon them in relation to the settlements of Ryton and Wolston. As such the proposals are considered acceptable and in accordance with policies D1, HS 5, M6 and DM 5.
- 6.64 Complaints have been received since the quarry started operating in relation to the deposit on mud on Wolston Lane due to HGVs leaving the site and further complaints were received at the beginning of January 2021. There is an operational wheel wash on site and a road sweeper is used to keep the site access and public highway clear of mud and debris. The issue has improved over the years and the latest problem has been rectified. The site is regularly monitored, and the site operations are discussed at site liaison committee meetings. The MPA are satisfied that the operator is taking the necessary action to prevent mud from being deposited on the highway and to clear it in the event it is deposited.

Rights of Way

- 6.65 The existing site incorporates a small network of public rights of way based around the footpath R144. R144 being a linear link between Ryton and Wolston that is an integral part of Centenary Way; A Coventry Way; and Shakespeare's Avon Way. In the case of this proposal the following rights of Way would be affected: -
- (i) Bridleway R144f crosses the existing and proposed haul road near to the entrance to the site.
 - (ii) Footpath R144d runs adjacent to the existing Seven Trent Sewage Works access which forms the western boundary of the processing plant site and crosses the Haul road.
 - (iii) Footpath R144 runs across the whole site from east to west but lies adjacent to the southern boundary of the Sewage Works and the northern boundary of the proposed processing plant. At the north west corner of the processing plant area the silt pipes would pass under the footpath, but the works would not require the temporary closure or diversion of the footpath.
- 6.66 There is already provision made on the existing site for the temporary diversion of the public right of way (R144) which skirts the working area of Phase 4 instead of crossing it directly. These proposals do not have any impact on this diversion. In addition, it has been made clear with signage that quarry vehicles are using the haul road which crosses the bridleway. These provisions will be retained for the life of the development until quarrying operations cease and the site is fully restored.
- 6.67 The Rights of Way team have no objection subject to conditions/notes being imposed to protect and maintain R144 where it is crossed by the proposed silt pipes. There are no objections from the Ramblers Association. The proposals are considered to be acceptable and in accordance with policy DM6.

Restoration and Agricultural Land

- 6.68 The plant site is currently used as a horse paddock (agricultural use) south of the haul road and grassland to the north. It is proposed to strip soils from the majority of the plant site to form a screen bund around the proposed plant. Once excavations cease the plant would be taken down together with the soil bund. The soils would be returned, and the land would be restored back to agricultural use including any gaps in the hedgerows. In terms of the silting arrangements, haul road and access and weighbridge these would all be removed once working and processing had ceased on site. These areas would then be restored in accordance with the approved plan. The existing approved restoration to agricultural and nature conservation is considered to be of a high standard and beneficial in terms of agriculture and for biodiversity purposes and therefore accord with policies M6 and DM1 and DM9.

7. Conclusion

- 7.1 The proposal seeks a standalone permission to install a weighbridge, continue the use of the existing access and internal haul road, erect and operate a mobile processing plant, erect a screening bund, use permitted excavation voids to dispose of silt and store clean water, and install pipes and pumps to transport the silt from the plant site to the voids for a temporary period of three years at Wolston Quarry. The development would take place wholly within the existing permitted site boundary.
- 7.2 In terms of the impacts on the Green Belt an assessment has shown that save for the processing plant the proposals would be appropriate development and therefore would have no harm on the Green Belt. The processing plant is considered to be inappropriate development but there are very special circumstances which would outweigh the harm to the Green Belt caused by the inappropriateness. The implications of the recent Holohan case and Habitats Regulations Assessment (see paragraph 6.49 above) have been considered and assessed and the conclusion of your officers is that these proposals would not adversely affect the integrity of the Severn Estuary Special Area of Conservation, Special Protection Area and RAMSAR site. The potential adverse impacts on amenity, the environment and transportation have been assessed and considered and subject to the imposition of suitably wording planning conditions they can be mitigated and controlled in an acceptable manner. The proposals would therefore be in conformity with Policy DM12.
- 7.3 The NPPF states that there are three dimensions to sustainable development, namely economic, social, and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals. With reference to the proposals, economically the proposals will release essential minerals required locally and nationally, create construction materials for the local markets and provide direct and indirect employment. Socially, suitable conditions can secure the reasonable amenity of existing residents adjacent to the site. In addition, the development would maintain an adequate and steady supply of minerals and a landbank of permitted reserves of sand and gravel. Environmentally the site lies wholly within an existing permitted site where there are already planning controls and environmental permits in place. The development would have no harm on the setting of nearby heritage assets.
- 7.4 Save for the processing plant, which is considered to be inappropriate development but for which there are very special circumstances that would outweigh the harm to the Green Belt caused by the inappropriateness, the proposals overall accord with the development plan and other relevant planning policy and as such the application is recommended for approval subject to the conditions contained within

Appendix B of this report. A deed of variation to the existing Section 106 agreement would also be required to maintain the routing arrangements.

8. Supporting Documents

8.1 Submitted Planning Application – Planning reference RBC/20CM010

8.2 Appendix A – Map of site and location.

8.3 Appendix B – Planning Conditions.

	Name	Contact Information
Report Author	Paul Wilcox	paulwilcox@warwickshire.gov.uk 01926 412538
Head of Service	Scott Tompkins	scotttompkins@warwickshire.gov.uk 01926 412422
Strategic Director	Mark Ryder	markryder@warwickshire.gov.uk 01926 412811
Portfolio Holder	Cllr Jeff Clarke	cllrclark@warwickshire.gov.uk