



Meeting: **Development Control and Regulatory Board**

Date/Time: **Thursday, 10 October 2019 at 2.00 pm**

Location: **Sparkenhoe Committee Room, County Hall**

Contact: **Mr E. Walters (Tel: 0116 3052583)**

Email: **euan.walters@leics.gov.uk**

Membership

Mr. J. G. Coxon CC (Chairman)

Mr. I. E. G. Bentley CC	Mr. W. Liquorish JP CC
Mr. M. H. Charlesworth CC	Mrs. J. Richards CC
Mr. B. Crooks CC	Mr. S. D. Sheahan CC
Mr. D. A. Gamble CC	Mrs. M. Wright CC
Mr. T. Gillard CC	Mr. M. B. Wyatt CC
Mr. D. Harrison CC	

Please note: this meeting will be filmed for live or subsequent broadcast via the Council's web site at www.leicestershire.gov.uk
– Notices will be on display at the meeting explaining the arrangements.

AGENDA

Item

1. Minutes of the meeting held on 12 September 2019. (Pages 3 - 6)
2. Question Time.
3. Questions asked by Members under Standing Order 7(3) and 7(5).
4. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.
5. Declarations of interest in respect of items on the agenda.
6. Presentation of petitions under Standing Order 36.



Reports of Chief Executive and Director of Environment and Transport on Public Rights of Way.

7. Application by Mr. and Mrs. Allen to divert Public Bridleways D6 and D43 at Quenby Hall, in the Parish of Hungarton (Harborough District). (Pages 7 - 54)

Reports of the Director of Environment and Transport on Tree Preservation Orders.

8. 2019/TPO/0172/LCC: Application from Mr. Bradley of 4, Manor Close, Burbage to fell a sycamore tree T1 protected by LCC Burbage (Sketchley Hall) TPO 1967. (Pages 55 - 62)
9. 2019/TPO/0206/LCC: Application from Mr. Pollard of 9 Park Road, Birstall to fell an oak tree T1 protected by LCC Birstall (Park Road) No. 2 TPO 1964. (Pages 63 - 70)

Reports of the Chief Executive on Planning Applications - County Matter Applications.

10. 2019/0994/07 (2019/CM/0113/LCC): Mick George Ltd - Application for revised restoration of quarry workings utilising the importation of suitable inert material to achieve a beneficial afteruse of the site - Ibstock Brick Ltd, Leicester Road, Ibstock. (Pages 71 - 98)
11. 2017/1380/03 (2017/CM/0237/LCC): Monier Redland - Extension of the period for the operation of the Shawell roof tile works to 31st December 2030 or one year after the permanent cessation of sand and gravel production at the adjacent Shawell Quarry processing plant, whichever is sooner - Shawell Tileworks, Gibbet Lane, Shawell. (Pages 99 - 112)
12. 2019/0541/04 (2019/CM/0104/LCC): Mr Hunt - Erection of a class B8 unit sized industrial warehouse unit - Watling Street, Burbage. (Pages 113 - 128)
13. Any other items which the Chairman has decided to take as urgent.
14. Chairman's announcements.



Minutes of a meeting of the Development Control and Regulatory Board held at County Hall, Glenfield on Thursday, 12 September 2019.

PRESENT

Mr. J. G. Coxon CC (in the Chair)

Mr. I. E. G. Bentley CC
 Mr. M. H. Charlesworth CC
 Mr. B. Crooks CC
 Mr. T. Gillard CC
 Mr. D. Harrison CC
 Mr. J. Kaufman CC

Mr. W. Liquorish JP CC
 Mrs. R. Page CC
 Mr T. Parton CC
 Mr. S. D. Sheahan CC
 Mrs. M. Wright CC

34. Chairman's Announcement - Mr. D. Jennings CC

With great sadness the Chairman reported the death of David Jennings, a sitting member, and the Vice Chairman, of the County Council. Mr Jennings died on 30 August aged 72. He had been a member of the County Council since 1997 and represented the Cosby and Countesthorpe Electoral Division. Mr Jennings was a longstanding member of the Development Control and Regulatory Board and served as its Chairman between 2003 and 2011.

Members of the Board stood in silent tribute to the memory of David Jennings.

35. Minutes of the previous meeting.

The minutes of the meeting held on 11 July 2019 were taken as read, confirmed and signed.

36. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

37. Questions asked by Members.

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

38. Urgent items.

There were no urgent items for consideration.

39. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

It was noted that all members who were members of a Parish, Town or District Council, or Liaison Committee would have personal interests in applications which related to areas covered by those authorities. No further declarations were made.

40. Presentation of petitions.

The Chief Executive reported that no petitions had been received under Standing Order 36.

41. Change to the Order of Business.

The Chairman sought and obtained the consent of Members to vary the order of business from that set out in the agenda taking agenda item 10: Fernvale County Primary School ahead of agenda item 7: Proposed addition of a public footpath at Sketchley Lane, Ratcliffe Culey.

42. 2018/2083/03 (2018/REG2Mi/0236/LCC): Leicestershire County Council - Application for a new 2-storey classroom block - Fernvale County Primary School, Somerby Road, Thurnby.

The Board considered a report of the Chief Executive, a copy of which, marked 'Agenda Item 10' is filed with these minutes.

The local Member Mr. S. J. Galton CC addressed the Board. Mr Galton raised concerns regarding carparking at the school and the surrounding streets, both whilst the new classroom block was being constructed and whilst it was in use.

In response to a question from a member the Director of Environment and Transport confirmed that the double yellow lines on the road outside the school, which indicated no stopping, became mandatory in June 2019 and for them to be enforced the head teacher of the school would need to contact the County Council.

RESOLVED:

- (a) That the application be permitted subject to the conditions nos. 1-11 as set out in the appendix to the report;
- (b) That the Board confirms (as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) that in dealing with the application the County Council worked in a positive and proactive manner, taking account of paragraph 38 of the National Planning Policy Framework.

43. Application for a Definitive Map Modification Order - Proposed addition of a public footpath T104 at Sketchley Lane, Ratcliffe Culey (Hinckley and Bosworth District).

The Board considered a joint report of the Chief Executive and the Director of Environment and Transport, a copy of which, marked 'Agenda Item 7', is filed with these minutes.

It was noted that there was a typographical error in the report on page 20 paragraph 83 where it should have stated that Hinckley and Bosworth Borough Council had been consulted with, not Harborough District Council.

In response to a question from a member the Director of Environment and Transport stated that consideration would be given to what mitigation measures could be put in place to minimise the impact of the footpath on the properties adjacent to the footpath and protect the safety of the nearby residents.

RESOLVED:

That an Order be made under the provisions of Section 53 of the Wildlife and Countryside Act 1981 to add a Public Footpath to the Definitive Map between Sketchley Lane and Public Footpath T34 in the village of Raftcliffe Culey in the Parish of Witherley as shown on Plan No. M1109P attached as Appendix A to the report.

REASON FOR DECISION:

The application satisfies the relevant statutory criteria because the evidence shows that a Footpath subsists or is reasonably alleged to subsist along the route claimed.

44. 2019/0601/04 (2019/VOCM/0107/LCC) - Tarmac Trading Ltd - Application to vary Condition 2 of planning permission 2018/1136/04 to extend the deadline for restoration from the 4th May 2019 to 31st December 2019. Application to vary Condition 37 of planning permission 2018/1136/04 for the approved restoration plan (proposed amendment to hedge location and retrospective amendment to pond location) - Cadeby Quarry, Brascote Lane, Cadeby.

The Board considered a report of the Chief Executive, a copy of which, marked 'Agenda Item 8' is filed with these minutes.

The local member Mr. B. Crooks CC stated that on the whole he was in support of the officer's recommendation though he had concerns about the size of the stones on the field and the drainage.

In response to the local member's comments the Chief Executive provided reassurance that there was an approved surface water drainage scheme in place, and proposed condition no. 40 related to the quality of the topsoil and restricted the size of the stones.

RESOLVED:

- (a) That the application be permitted subject to the conditions nos. 1-41 as set out in the appendix to the report.
 - (b) That the Board confirms (as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) that in dealing with the application the County Council worked in a positive and proactive manner, taking account of paragraph 38 of the National Planning Policy Framework.
45. 2018/1457/03 (2018/CM/0147/LCC): Tarmac Trading Ltd. - Extension of sand and gravel working with restoration to agriculture - Shawell Quarry, Gibbet Lane, Shawell.

The Board considered a report of the Chief Executive, a copy of which, marked 'Agenda Item 9', is filed with these minutes.

RESOLVED:

- (a) That the application be permitted subject to the conditions nos. 1-38 as set out in the appendix to the report, and a Section 106 Planning Obligation for the monitoring of a borehole level including appropriate trigger levels for the maintenance of a supply of water to the adjacent tile works.
- (b) That the Board confirms (as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) that in dealing with the application the County Council worked in a positive and proactive manner, taking account of paragraph 38 of the National Planning Policy Framework.

46. 2019/0533/04 (2019/Reg3Ma/0110/LCC): Leicestershire County Council - Construction of an 80 Place ASD/Communication and Interaction School together with all external works - Former Newlands Primary School, Moore Road, Barwell.

The Board considered a report of the Chief Executive, a copy of which, marked 'Agenda Item 11', is filed with these minutes.

It was reported that the local member Mrs. J. Richards CC had concerns regarding congestion on the roads around the school, on street parking issues, and the safety of children cycling to school given the traffic problems.

In response to the local member's comments the Chief Executive emphasised that the proposals for a special school would result in a reduction in the number of vehicle trips to the site and the internal layout of the site had been designed to stack vehicles at peak times. Whilst cycle stands were to be installed and some older or more independent pupils might cycle, it was expected that the majority of pupils would travel to and from the site by taxi or minibus. The demand would not be the same as for a mainstream primary or secondary school.

RESOLVED:

- (a) That the application be permitted subject to the conditions nos. 1-19 as set out in the appendix to the report.
- (b) That the Board confirms (as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) that in dealing with the application the County Council worked in a positive and proactive manner, taking account of paragraph 38 of the National Planning Policy Framework.

2.00 - 3.40 pm
12 September 2019

CHAIRMAN



DEVELOPMENT CONTROL AND REGULATORY BOARD

10th OCTOBER 2019

**APPLICATION FOR A PUBLIC PATH DIVERSION ORDER -
PROPOSED DIVERSION OF PUBLIC BRIDLEWAYS D6 AND D43
(PARTS) AT QUENBY HALL, HUNGARTON (HARBOROUGH
DISTRICT)**

**JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR
OF ENVIRONMENT AND TRANSPORT**

PART A

Purpose of the Report

1. The purpose of this report is to seek determination of an application by Mr. and Mrs. Allen to divert Public Bridleways D6 and D43 at Quenby Hall, in the Parish of Hungarton, in Harborough District. The proposed diversions are shown on Plan No. 2483/P attached as Appendix A to this report.
2. Under the proposal Bridleway D6 would be diverted from the route A-I-B-C-D-E on the plan, to the route A-F-B-G-E and Bridleway D43 would be diverted from points H and I on the plan to points H and J on the plan.

Recommendation

3. It is recommended that an Order be made to divert the Bridleways D6 and D43 at Quenby Hall as shown on the Plan no. 2483/P appended to this report.

Reasons for Recommendation

4. The application to divert the paths as it relates to Bridleway D6 and D43 satisfies the relevant statutory criteria set out under the provisions of the S119 of the Highways Act 1980. It is in the interests of the occupier and the alternative route is not substantially less convenient and would not have a significant negative effect on public enjoyment of the path as a whole.

Resource Implications

5. The applicant has constructed a trackway on the proposed alternative route. Future maintenance of the track will remain the responsibility of the occupier.

Circulation under the Local Issues Alert Procedure

6. A copy of this report has been sent to Mr. S. J. Galton CC (Launde division).

Officers to Contact

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Edwin McWilliam, Access Manager
Environment and Transport Department
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PART B

Background

7. In February 2018 the Council received an application from Mr. and Mrs. Allen of Quenby Hall, Hungarton, for the diversion of Public Bridleways D6 and D43 (Parts) within the curtilage of the Quenby Hall Estate. A copy of the Application is attached as Appendix B.
8. The full reasons given for seeking the diversion of Bridleway D6 are outlined in the application. The primary reason given is the wish to see a 'lost' Italianate garden reinstated between the Hall gardens and the woodland to the south which would necessitate the diversion of Bridleway D6. The other reason given is to improve privacy.
9. The application also seeks to divert another Bridleway, D43, also shown on the plan. This was not part of the original proposal but was suggested by the Rights of Way Officer on the basis that if it was agreed to divert Bridleway D6, Bridleway D43 might be diverted at the same time to follow a better, more commodious route for the public to follow.
10. It was originally intended that this application would be considered at the meeting of the Development Control and Regulatory Board on 11 July 2019 and a report was produced as part of the papers for that meeting however the report was withdrawn to enable officers to give further consideration to new information that had been received.

Legal Considerations

11. The County Council must have regard to the legal considerations set out in the Highways Act 1980 as detailed below.

Highways Act 1990 (Section 119)

12. The primary criteria which must be met before a Highway Authority makes a public path diversion order are as follows:-
 - a) Before making an order the Authority must be satisfied that it is expedient to divert the path in the interests of the public or the owner, lessee or occupier of the land crossed by the path.
 - b) Before confirming an order the Authority or the Secretary of State must be satisfied that:-
 - i) The diversion is expedient in the interests of the person(s) stated in the order,
 - ii) The path will not be substantially less convenient to the public as a consequence of the diversion,

- iii) It is expedient to confirm the order having regard to the effect it will have on public enjoyment of the path as a whole, on other land served by the existing path and on land affected by any proposed new path, taking account the provisions for compensation.

13. An authority should not make an order if it does not consider that the statutory criteria to enable it to confirm the order can be met.

Site Inspections

14. Initial site meetings with the prospective applicants were held on 28th September 2017 and 18th December 2017. A further site visit was made on 15th January 2019 in the company of the Council's Highways Solicitor to further review the viability of the proposed diversion. A site survey plan is attached as Appendix C. Photographs from these visits are attached as Appendix D, along with a plan showing the positions from which these photographs were taken (Appendix E).

The Existing Route of Bridleway D6

15. The existing route of bridleway D6 starts from the west and follows the tree-lined, tarmacadamed access drive leading to Quenby Hall through attractive parkland. It crosses a brick-built bridge (photograph 13) and continues towards the Hall. Around 100 metres from the Hall the bridleway reaches a junction of the access road at point 'B' on the plan (photograph 1) where a track leads off to the north-east towards the Hall stables.

16. As can be seen from the photograph, this offers a vantage point from which to view Quenby Hall and much of the detail of its architecture. At this point the bridleway departs from the drive, curves to the south-east across grassland and passes through a gateway (photograph 3).

17. The bridleway, which at this point is quite close to the ha-ha wall, curves away from it in a sweeping semi-circle. The definitive legal line of the bridleway does not therefore run alongside the ha-ha wall, but because the formal route describes an imaginary curve not defined on the ground through the grass, members of the public tend to walk alongside the wall.

18. From the legal line of the bridleway the Hall can be viewed throughout the seasons between the trees. (photograph 5).

19. There are good views from this location of the surrounding countryside although the woods and hills to the south are somewhat distant with much grassland in the foreground as the path sits on top of a plateau (photograph 6).

20. The bridleway then swings around to the north-east in an arc across grassland around the Hall and then joins a stony/gravel track at point 'D' (photographs 7, 8, 9 and 10).

21. The path then follows this track eastwards for around 200 metres to point 'E' on the plan where, the diverted path would re-join the unaffected section of bridleway (photographs 10, 11 and 12).
22. The section of the bridleway proposed to be diverted is approximately 920 metres long and mainly runs on gentle slopes over, grass which includes short surfaced parts. It offers easy walking and riding, and provides good views of Quenby Hall and the surrounding countryside .

Proposed Alternative Route

23. The proposed alternative route for bridleway D6 departs from the unaffected part of the route at point 'A' on the plan diverging at an angle along a grassy track for around 100 metres before passing through a gateway at point F. This new route would mean pedestrians would not cross over the bridge shown in photograph 13. The proposed route offers a side on view of the structure as a whole.
24. Prior to lodging the application for a diversion, Mr. and Mrs. Allen had consulted the British Horse Society, the Leicestershire and Rutland Bridleway Association, the Ramblers Association, the Leicestershire Footpath Association and the Hungarton Parish Council about their proposed alternative route. A concern was that the alternative was muddy. The applicants have addressed this by laying down a sand/gravel/grass seed mix to provide a firm and dry walking and riding surface. (The work was carried out on the Applicants' own volition, not at the Council's request). It provides a good walking and riding route that should be usable at all times of the year.
25. The alternative route then turns south-east and follows the newly constructed wide surfaced track downhill. The surface is designed to grass over to form a natural-looking, well drained and firm surface for walkers and horse riders. This has begun to happen.
26. Views available from this section of the route are illustrated in photographs 14, 15, 16, 17, 18 and 19. At the start of this section the Hall can still be seen and the slope of the land opens up to a wide vista over the surrounding countryside and woodland. Towards point 'G' on the plan the gradient becomes steeper and reaches a maximum of around 1 in 5 for a short distance of approximately 100 metres. Whilst walking downhill this poses no difficulty. Using the route the other way, it does pose a short steep section. At point 'G' the proposed new bridleway then proceeds through a new gate to the south of woodland within which is the site of earthworks related to the old hall and village of Quenby (photograph 20). The bridleway then heads north-east continuing along the new track for approximately 600 metres traversing open pastureland. This section of track has an average gradient of around 1 in 20. The proposed path is now flatter than areas of ridge and furrow in the surrounding field.
27. Fine views of the surrounding countryside can be observed from this section of the alternative route (photographs 21, 22, 23, 24 and 25).

28. The Hall can be seen from this section of path at a distance. There are individual trees which limit the view at times. (photographs 23 and 25).
29. The proposed alternative bridleway is approximately 1,080 metres long compared to the original route which is approximately 920 metres; an extra 160 metres. A good walking speed on a ramble is around 3 miles an hour so the extra 160 metres equates to around 2 minutes extra walking time. The route is easier to use as it is on a track but the land levels change more than on the existing path.
30. The full length of bridleway D6 from its start on Barley Leas, Hungarton to its end on Hungarton Road, Cold Newton is approximately 2,350 metres (2.35 kilometres or nearly one and a half miles). At three miles an hour this would take around 30 minutes to walk.

Formal Preliminary Consultations

31. Preliminary consultations were carried out between Thursday 30th August 2018 and Thursday 4th October 2019. Utility companies, user groups, the Parish Council, the County Planning Archaeologist and other interested parties were consulted by letter or email.
32. The Council received no objections from the local horse riding and walking user groups during the above consultation period, nor any objections from utility companies or from the District or Parish Councils.
33. The County Planning Archaeologist did not object to the order.
34. Two objections to the proposal were lodged, by Mr. L. Faulkner (Appendix F) and Mr. G. Barnett (Appendix G) and a representation of concern about the proposal was received from Mrs V. Dennison (Appendix H).
35. The Applicants were invited to comment on the representations and their responses are attached as Appendix I.

Objections/Representations and Officer Comments

Mr. Faulkner (local resident)

36. Mr. Faulkner considers that the public enjoyment would be adversely affected by the diversion. His main reasons for this are that by diverting the bridleway the public would be deprived of what he describes as *“a magnificent view of the façade of Quenby Hall as you approach from the west along the driveway”*. Mr. Faulkner also takes the view that the diversion of the bridleway would diminish panoramic views of the landscape on both sides of the existing route.

37. By diverting the route, the public are further away from the building. However, the building is still in view on the alternative route albeit at a greater distance. The alternative route also offers improved views over the land to the south.
38. Mr. Faulkner goes on to express concern that the alternative route would be substantially less convenient in terms of it being a lengthy diversion over undulating terrain and having a dog-leg in the middle of it.
39. Measurements of the whole route of the bridleway from start to finish, of the existing route and of the proposed alternative as described in paragraphs 32 and 33 above, demonstrate that the extra length of path to be walked or ridden as per the proposed alternative is only 160 metres, adding only 2 minutes extra walking time to an overall journey time for a walker of around 30 minutes. Therefore, it is considered that in terms of path length the diversion would not make the path substantially less convenient.
40. There is not a dog-leg as such in the proposed route but rather a change of direction which gives the proposed alternative route a wide 'V' shaped appearance on the map. This, again, does not make the proposed diversion substantially less convenient. However, the diversion would require walkers and riders to drop downhill and then journey back uphill.
41. Mr. Faulkner raises the issue of those with disabilities being inconvenienced by the diversion of the bridleway off the access drive, being deprived of the closer view of the Hall. This would be correct, though an attractive view is still available where the proposed paths leave the drive.
42. Mr. Faulkner also suggests that the diverted route would be less convenient for disabled people and those perhaps with pushchairs. The Applicants have responded to the effect that they have provided the alternative route with a wide stone/sand/grass type surface that would be available to less able users and those with push chairs throughout the entirety of the proposed diversion, whereas the existing route crosses substantial areas of grassland where there is no hard surface. It is likely that some people would find the alternative route more convenient in terms of surface. Some will find the new route more challenging due to the changes in elevation, including the short steep section.
43. Finally, Mr. Faulkner raises the issue of the applicant's desire to re-construct an Italianate garden and to improve their privacy. The development of an Italianate garden would require discussions with the local planning authority and English Heritage as the parkland is Grade 2 listed. It may even require the path to be moved under different legislation. The authority is not aware of a time table for exploring the possibility of a new garden. The other reason given by the applicant is for privacy and this is the criteria being judged.
44. It is not necessary under the terms of the legislation for the applicants to demonstrate that lack of privacy is currently causing a problem. They only have to show that the diversion would be in their interests. Moving a path further from a property is considered to be sufficient reason to give for

applying for a diversion on the basis that it is in the interests of the landowner to so.

Mr. Barnett (local resident)

45. Mr. Barnett's objections are very similar to those of Mr. Faulkner. He first states that the alternative route will be more difficult to use in winter because it will not run across the same types of surfaces as the original. However, it is noted that the applicants have surfaced the alternative route, so it should not be substantially less easy to use in this respect. Most of the current diverted route runs across a grass field.
46. Mr. Barnett goes on to say that the new route will make the length of the bridleway substantially greater. As explained above, the new route only adds 2 minutes walking time.
47. Mr. Barnett next raises the issue of views of the Hall from the existing route as compared to the alternative route. He considers that views of this historical feature would be the poorer for example by the loss of the "*grand approach view of Quenby Hall*". The path will still use the approach albeit breaking off at an earlier point. The Hall will be further away because the point the path leaves the drive is further away. Conversely this is the reason for the application. The Hall is still visible from a number of points on the alternative route but details are more difficult to ascertain.
48. Mr Barnett considers that there would be a loss of panoramic views if the path were diverted. The views of the surrounding countryside from the alternative route are good, in part due to the elevation changes.
49. Mr. Barnett comments concerning the Applicants' knowledge of the right of way prior to purchasing the Hall are not relevant. Any person may apply for a diversion.
50. Similarly, with regard to slight misuses of the path and surrounding grounds reported by the applicant it is reasonable for the Council to take the information relayed to it as believable, as it would be nothing out of the ordinary on minor highways.
51. Mr. Barnett considers that if the applicants were to proceed with developing an Italianate garden on the land concerned, it would not be necessary to divert the bridleway. As the applicants have not yet submitted planning permission for the gardens to the Local Planning Authority, and it is understood that there are as, yet no plans drawn up it is difficult to speculate on this matter. It would seem reasonable to presume that if the bridleway were to remain where it was, this would have a significant effect on what the applicants could achieve, with regard to terracing, planting and so forth. It might well curtail what they wish to construct.

52. The applicant has not supplied any detailed proposals for a garden.
53. Finally, Mr. Barnett notes that the existing route is inadequately waymarked. The standard of waymarking in Leicestershire is generally good. However, officers would be happy to discuss improvements with the landowners.

Mrs. Vicky Dennison (local resident)

54. Mrs. Dennison does not object to the proposed diversion and considers that “the scenic view would be just as good, if not better than the existing route”. However, she expresses concern that the new route would remove the opportunity for horse riders to have a canter and that the new stony surface is “horrid” for horses. However, it is understood that the applicants have used the type of surface material they have for the very purpose of it eventually grassing over to provide a naturalised surface for users, while avoiding boggy areas. There is no obligation on the landowner or the Highway Authority to provide a surface suitable for horses to canter along.

Applicants’ Response to Representations

55. The Applicants’ response to the representations is attached as Appendix I and summarised below.
56. Mr. and Mrs Allen note that the existing route is often wet and goes over ridge and furrow. They state that the distance and gradient of the proposed alternative was not considered a significant impediment by the user groups they consulted in 2017 nor by those who were at the Parish Council meeting in May 2017. The proposed new route would rise from the Spinney on a gentle incline, on a wide, flatter, more solid surface which could be used by those with pushchairs or mobility scooters. They cite a local rider who uses the proposed diversion regularly and was happy to endorse the route and an older local resident who considered that the diversion was walkable, having seen and walked part of the route including to the bottom off the Spinney.
57. The Applicants suggest that the new view would be as good as the existing, showing the Hall in an elevated position from both the south-east and south-west, and framed amongst the historic trees. It is also pointed out that the new route would enable a new view of the Coplow and the old railway line. The new view of the Hall from the south-west looks across the landscaped old quarry which is grassed and to be sown with wild flowers. As explained to the Parish Council, the Applicants’ plans for the future include a view of the restored Medieval garden and the installation of a site board setting out its history and another bench to the south-west of the Hall (suggestions from local parishioners). It is stated that at the Parish Annual Meeting in May 2017 the plans were outlined, and the proposal received overwhelming support.
58. The Applicants also add that some people have climbed up the ha-ha wall and trespassed on the Hall garden.

Conclusion

59. Under S119 of the Highways Act, the authority needs to be satisfied that the proposal is in the interests of the occupier of the land, before considering making an order. The land subject to the order is in the ownership of the applicant. It is considered that the diversion would be in the Applicants' interests. It would place a greater distance between the Hall and the public right of way thus providing greater privacy.
60. The authority could not confirm the order unless it was satisfied that the diversion is not substantially less convenient to the public. The proposal is not significantly longer, adding just 2 minutes to the journey. The gradient of the existing route is on a gentle rise. The alternative route does go down a slope. On one side this is a longer fall of about 1 in 20. On the other it includes a short 1 in 5 section. These sorts of height changes are not an unusual circumstance on the rural path network. The user groups or the local Parish Council did not raise this as an issue.
61. Before confirmation, the authority is also required to consider the effect the diversion would have on public enjoyment of the path as a whole. A walker using the route would currently take about 30 minutes currently. With the proposal this will increase to 32 minutes. As regards views, Mrs. Dennison agrees that landscape views from the proposed new route are in some respects better than those of the existing route, but Mr. Barnett and Mr. Faulkner take an opposite view. It is the opinion of officers, that on balance, there would be no significant diminution of the quality of landscape views.
62. With regard to the views of the Hall, moving the path further away will have an effect. The legislation allows for a path to be moved further away from a home and privacy would be enhanced. However, the proposed alternative route does provide attractive views of the Hall albeit from a greater distance.
63. The proposal has been subject to preliminary consultations. The user groups (both walking and riding) have no objections. Of the responses received, their concerns have been considered above. The proposal is in the interests of the occupier. Looking ahead, the proposed route is not substantially less convenient to the path as a whole or has a significant effect on public enjoyment of the route. For the reasons set out above, it is considered that the Diversion order proposal is reasonable, and an Order should be made.

Equality and Human Rights Implications

64. The E.U. Convention Rights and the Articles that set out the rights of individuals (such as respect for family life) can impact on certain decisions where the Council is making decisions or setting policy of public access and Rights of Way issues. However, this impact is confined to the exercise of those powers and functions. The Council has to exercise discretion about proposals that require a balance between the benefits of the scheme and the potential adverse implications for landowners and others.

65. Proposals to divert a Right of Way or to use statutory powers to compulsorily create a new Right of Way should refer to the Convention of Human Rights and take these issues into account when deciding if that scheme should proceed.
66. However, applications submitted to the Council under the Highways Act 1980 for a Diversion Order has limited discretion .
67. For that reason, arguments based on a potential breach of any of the Article rights have no relevance to such applications. The Secretary of State has indicated that objections based on such rights will not be regarded as relevant.
68. The work already undertaken on the proposed diversion route has produced a firm and dry walking/riding surface, which it is intended, will grass over to produce a natural-looking and well-drained path. This might improve access for less able users. However, the increased gradient over a section of the proposed diversion would be likely to make access more difficult for others.
69. It is noted that people with disabilities would be inconvenienced by the shortening of the route on the drive..

Background Papers

Application to divert bridleways D6 and D43 and representations received (appended).

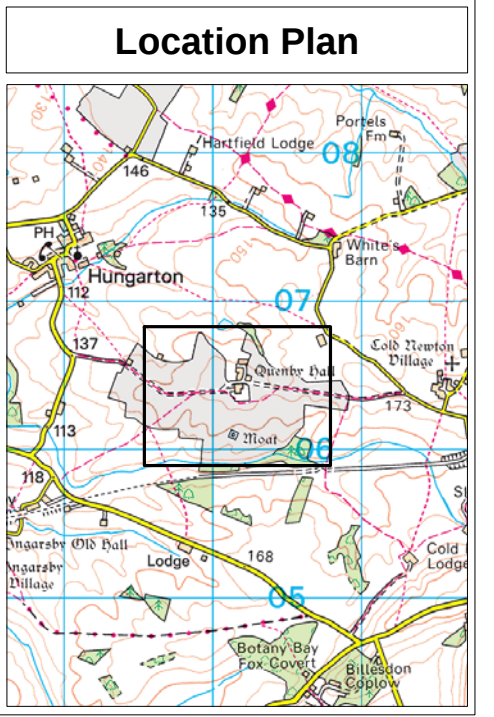
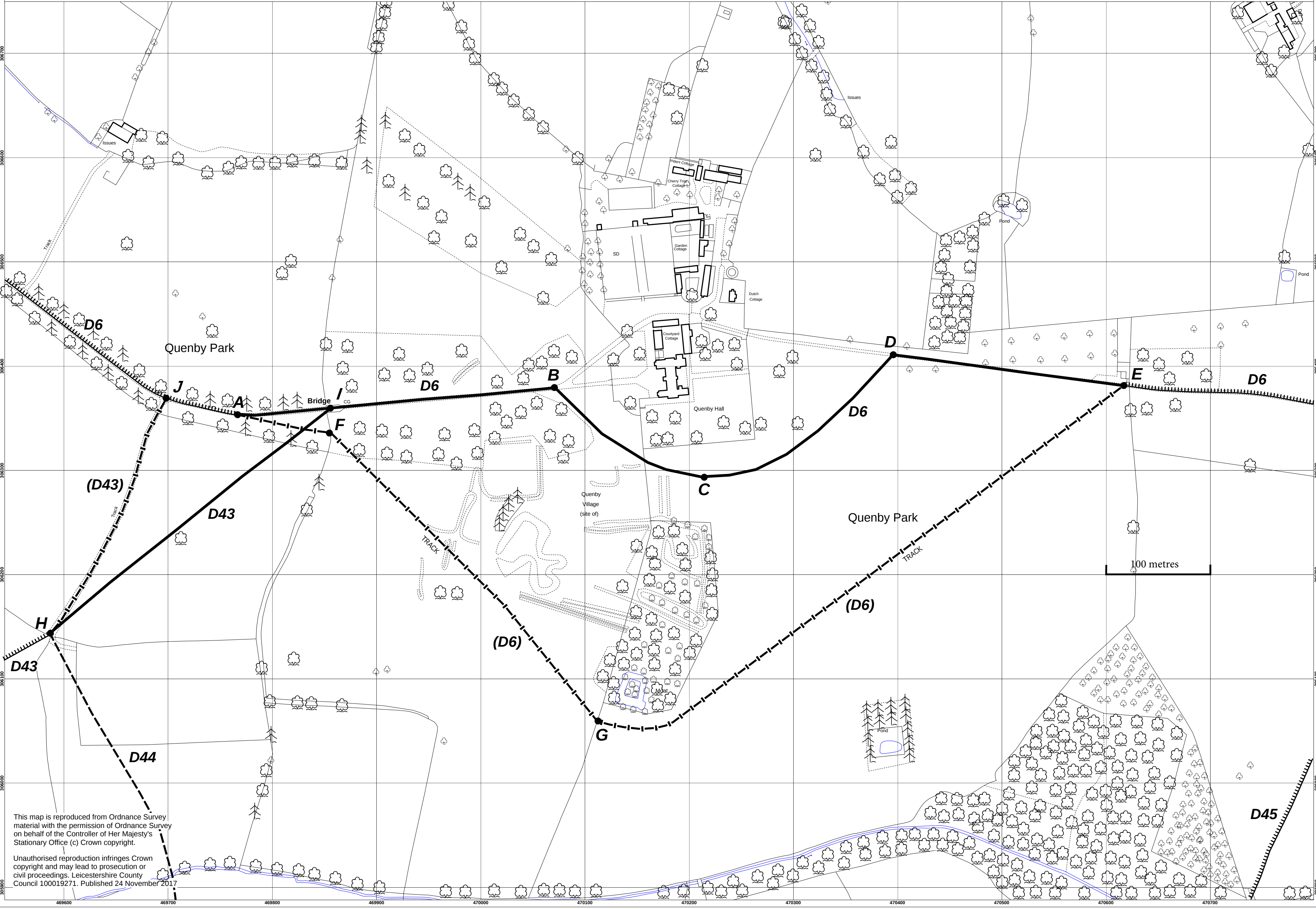
Appendices

- Appendix A – Proposal Plan 2483-P
- Appendix B – Completed Application
- Appendix C – Site Survey Plan 2483-SS
- Appendix D – Site Photographs
- Appendix E – Site Photos Plan 2483-SP
- Appendix F – Objection from Mr. L. Faulkner
- Appendix G – Objection from Mr. G. Barnett
- Appendix H – Representation from Mrs V. Dennison
- Appendix I – Applicants' Comments on Representations

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Leicestershire County Council - Proposed Diversion of Public Bridleways D6 and D43 at Quenby Hall, Hungarton

APPENDIX A



- Key**
- Bridleway proposed to be diverted
 - - - Proposed alternative bridleway
 - ||||| bridleway unaffected
 - - - Footpaths

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Environment & Transport Department,
County Hall, Glenfield,
Leicestershire LE3 8RJ
email footpaths@leics.gov.uk
Director, Anne Carruthers

 **Leicestershire
County Council**

Plan No. 2483/P
Scale 1:2500

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The Safe and Sustainable Travel Team,
Environment & Transport Department,
Leicestershire County Council,
County Hall,
Glenfield,
Leicester,
LE3 8RJ

21st February 2018

Dear



Routes D6 and D43

Please find enclosed the completed application for the diversion of public rights of way together with supporting documents.

Enclosed is a cheque for £1,330.00 to cover the administrative charge relating to route D6 (£1,250.00) plus £80 for the additional route (D46) which we should like to re-direct as it links to D6.

Thank you for your help and guidance as part of this process.

We look forward to hearing from you in due course.

Yours sincerely



Martin and Joanne Allen

**APPLICATION FOR THE DIVERSION/EXTINGUISHMENT
OF PUBLIC RIGHTS OF WAY**

This form should be used to apply to Leicestershire County Council for the Diversion or Extinguishment of Public Rights of Way in Leicestershire.

Leicestershire County Council is the competent authority to make Orders under:-

- a) The Town and Country Planning Act 1990:- Where the County Council has issued the relevant planning permission.
- b) The Highways Act 1980:- Where landowners wish to alter rights of way on their land, or any other person or organisation would like the authority to create a new path. (An application under this Act may also be submitted to the appropriate District Council).
- c) Wildlife and Countryside Act 1981. If you consider that a right of way should be added to the Definitive Map or should not have been shown at all or has a different status, and you have documentary evidence to support this, then do not use this form. Please contact a member of the Rights of Way Service in the Environment & Transport Department on Leicester 0116 305 7087, who will arrange for the appropriate forms to be sent to you.

Please complete the following questions:-

1. Name and address of applicant. (Please include email address)

Mr and Mrs Allen
Quenby Hall
Hungarton
Leicestershire
LE7 9BQ
joanne@mrallen.net and martin@mrallen.net

2. Details of the Public Right(s) of Way

- a) The Village/Town or place where the Right(s) of Way is/are situated.

[Hungarton, Leicestershire](#)

- b) Status of Right of Way (i.e. Footpath/Bridleway).

[Bridleways](#)

- c) Name or number of the Right(s) of Way (if known).

[D6 and D43 at Quenby Hall, Hungarton](#)

3. Type of Order required – Diversion/Extinguishment (delete as appropriate)

[Diversion](#)

4. Description of existing route(s).

[The existing route can be described below under various headings:](#)

[Distance](#)

[The existing Footpath and Bridleway \(D6\) leads from the main road through the Quenby Hall Estate to the other side. This can be seen on the attached map \(Plan No 2483/P\)](#)

[The route has been measured as 1990 meters from when it enters the estate from Hungarton and leaves at Cold Newton.](#)

[The existing Footpath and Bridleway D43 links to D6 at point 'I' on the map.](#)

Views

The existing route gives a good view of the Hall and good views to the East and West aspects in particular. Views are limited to the South and very limited to the North.

Surface and Gradient

The existing route comprises a mixture of Tarmac Drive, Ridge and Furrow and an all-weather gravel and sand compound. The gradient is generally level with exception to the Ridge and Furrow.

Interest

The route is popular with both walkers and riders and makes up part of the Three Halls Walk incorporating both Loseby and Baggrave.

5. Description of alternative route(s) (if appropriate).

The proposed route will offer more than the existing route and can be described below under various headings:

Distance

The proposed new Bridleway and footpath (D6) increases to 2190m which represents a 10% increase in length. The Bridleway and Footpath (D43) is proposed to move slightly to point 'J' to assist identification of the route.

Views

The proposed new route (D6) will show Quenby Hall in an elevated position from both the east and west aspects. These views show the Hall sitting above the surrounding Ha-Ha walls which sets off the splendour of the Hall and acts like a plinth to enhance the Hall in its setting. Photo attached.

The Hall will be framed amongst the historic Cedar and Oak trees which date back hundreds of years. These trees cannot be appreciated in the same way in their current setting and especially against the backdrop of the Hall when viewed hard up against them.

A new view of the Coplow will be seen and enjoyed.

A new view of the old railway line can be seen and enjoyed.

Surface and Gradient

The proposed route (D6) measures a 3.75% average gradient fall – this has been calculated at some 15-17m fall across the distance south of the Copse with Medieval moats and fishpond which the proposed new route will be adjacent to. The new route consists of a Tarmac Drive and an all-weather gravel and sand compound.

As a result of liaising with the Ramblers Association, Leicestershire Footpaths Association, Leicestershire & Rutland Bridleways Association, British Horse Society and the Parish Council it was concluded that the surface of the proposed new route would need addressing. Consequently, the following steps were taken; Mole Ploughing took place initially to improve drainage across the Parkland. A sand and gravel composite was then carefully laid over the Ridge and Furrow to create an all-weather surface. The depth, width and camber was considered to ensure the robustness of the route for years to come. The route has been grass seeded to blend back into the Parkland.

The improved surface significantly improves the levelness and construction of the pathway which is something that riders were particularly concerned with. Since the surface has been created all five user groups (listed within point 9) have viewed.

The improvements to the surface will enable the use for mobility scooters and pushchair users to use the route. This wasn't possible before.

Interest

The proposed new route (D6) will enable passers-by to see the restoration of the Copse following the discovery of a medieval gem which the owners would very much like to restore. This is referred to as the Lost Italian Garden and comprises two moats and a fish pond – all Medieval. In Victorian times the garden was developed further as it formed the main garden at the Hall – the seams in the ground can still be seen leading to the garden. The landscaping was done by Harold Peto in an Italian style and hence it is called the 'lost Italian Garden'. It is the owners hope to fully research the garden and restore it to its former glory.

The owners are proposing to erect a site board detailing the history for all passers-by to enjoy

The owners are planning to plant wild flower seed in the Spring to make improvements to the habitat and overall look of the Quarry. Once again, this will add to the interest for passers-by to enjoy.

The owners propose to put two benches in place so walkers can rest and enjoy the views should they wish to.

6. If applying for a temporary Order under the provisions of the Town & Country Planning Act 1990 for what period of time do you wish it to last?

N/A

7. Reason for making the application:-

The reasons and benefits are listed below and are mentioned in point 5:

Preservation of the Lost Italian Garden (as detailed within point 5 under interest) is the primary reason for redirecting the route. The owners wish to restore the garden and recreate a link from the Hall to enable them to use and enjoy. Currently the Bridleway and Footpath is between the Hall and the Lost Italian Garden rendering it unfeasible to restore.

Privacy is another reason for redirecting the route. The existing route is enjoyed and respected by most of its users however sadly and given the close proximity to Hall, which is a private home, some users abuse this. The enjoyment for all (users and the owners) has been fundamental in the reason for requesting an alternative route. The owners have carefully and thoughtfully consulted with user groups to understand their views and requirements. As a consequence the owners have gathered suggestions and are prepared to put these in place to widen the enjoyment for all. Signage, surface, benches, horse friendly gate openings, mounting blocks and a site board to inform users of the restoration of the Lost Italian Garden have either been addressed or are planned.

The estate is entering a mid-tier Countryside stewardship agreement in 2018; the intention is to create a wildflower meadow over the old quarry site, to which the proposed route will pass by Point D, and graze in line with the rest of the parkland in time. It is hoped that the agreement will aid the restoration of the Lost Italian Garden along with other parkland restoration projects such as tree planting and habitat creation and management.

Better views of the south will become available comprising a view of the Coplow which wasn't previously available to be seen or enjoyed. A new view of the old railway line which wasn't previously available to be seen or enjoyed. The owners have already received strong anecdotal feedback from numerous Parishioners who now elect to use the proposed route as their preferred choice, to walk or ride, due to the views. All user groups made reference to the improved views the new route would give and have stated this from the outset.

8. Names and address of **ALL** the owners(s)/ occupier(s)/tenant(s) of **All** of the land affected by the proposal, including the existing and alternative routes (if appropriate).

Mr and Mrs Martin Allen, Quenby Hall, Hungarton, Leicestershire, LE7 9BQ

Mr John Murray, Dutch Cottage, Quenby Hall Estate, Hungarton, Leicestershire, LE7 9BQ

Miss Jessica Rolph, Courtyard Cottage, Quenby Hall Estate, Hungarton, Leicestershire, LE7 9BQ

Mr and Mrs Chris Egerton, Garden Cottage, Quenby Hall Estate, Hungarton, Leicestershire, LE7 9BQ

James Thompson and Susie Rice, Cherry Tree Cottage, Quenby Hall Estate, Hungarton, Leicestershire, LE7 9BQ

Mr Michael Dixon, Inders Cottage, Quenby Hall Estate, Hungarton, Leicestershire, LE7 9BQ

9. Names and addresses of any user organisation(s) you have approached, (Please attach copies of any responses).

Mr Martin James, Ramblers Association (Leicestershire Branch) 21 Hawthorn Drive, Melton Mowbray, Leicestershire, LE13 0PQ

Mr Stan Warren, Leicestershire Footpaths Association, 26 Welbeck Avenue, Leicester, LE4 0ED

Mrs Vicky Allen, Leicestershire & Rutland Bridleways Association, 123 Park Road, Loughborough, Leicestershire, LE11 2HD

Mrs Alex Piper, British Horse Society (Leicestershire), Bulldyke Farm, Medbourne Road, Hallaton, Market Harborough, Leicestershire, LE12 8UH

Mrs Penny Faulkner (chairman), Andrew May (clerk), Hungarton Parish Council, Hill Rise, Barley Leas, Hungarton, Leicestershire, LE7 9JH

**TO ENABLE THE COUNTY COUNCIL TO BEGIN PROCESSING YOUR APPLICATION,
THE FOLLOWING INFORMATION WILL NEED TO BE SUPPLIED**

A plan (scale 1:1250 or 1:2500) showing the existing and alternative route(s) clearly marked. An Ordnance Survey extract can be supplied by the County Council for this purpose by contacting the Rights of Way Service within the Environment & Transport Department on Leicester 0116 305 7087.

YOU ARE ALSO REQUIRED TO CONFIRM:-

10. That you/your client own(s) all of the land affected by the proposal. If you do not own any or all of the land concerned, you must supply the County Council with the written agreement of any owner(s)/occupier(s)/tenant(s) of the land.
11. That you/your client will pay the costs involved in processing the application. The administration charge is £1,250 plus a further £80 for each additional path included in the Order. The cost of advertising is also payable by the applicant(s). If the application is not finally approved, or is withdrawn by you/your client at any stage, you/your client will be required to pay the costs to date.
12. That you/your client will indemnify the County Council against any claim which may be made for compensation, as provided by Section 28 of the Highways Act 1980. Claims may be made if it can be shown that the value of a person's interest in land has depreciated, or that a person has been disturbed in his enjoyment of land, as a consequence of the coming into operation of a Public Path Diversion Order. However, it is unlikely that a claim would be forthcoming if the written agreement of all the owner(s) and occupier(s) of the land has been sought. Note:- this indemnification only applies to diversion Orders made under section 119 of the Highways Act 1980.

DECLARATION

I/we declare that the Right(s) of Way to be diverted/extinguished is/are in no way obstructed and that it is/they are fully available to the public and I/we undertake that it/they shall in no way be obstructed before the Order is confirmed.

I/we confirm my/our agreement to points 10, 11 and 12 (if appropriate).

Signed/

Date

21st February 2018.

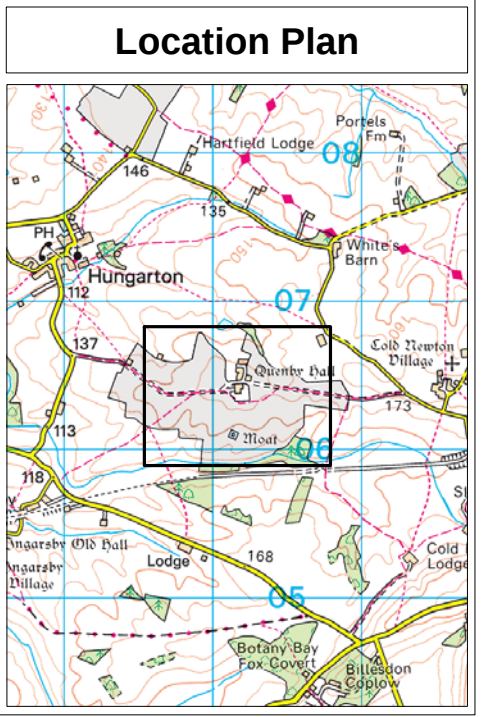
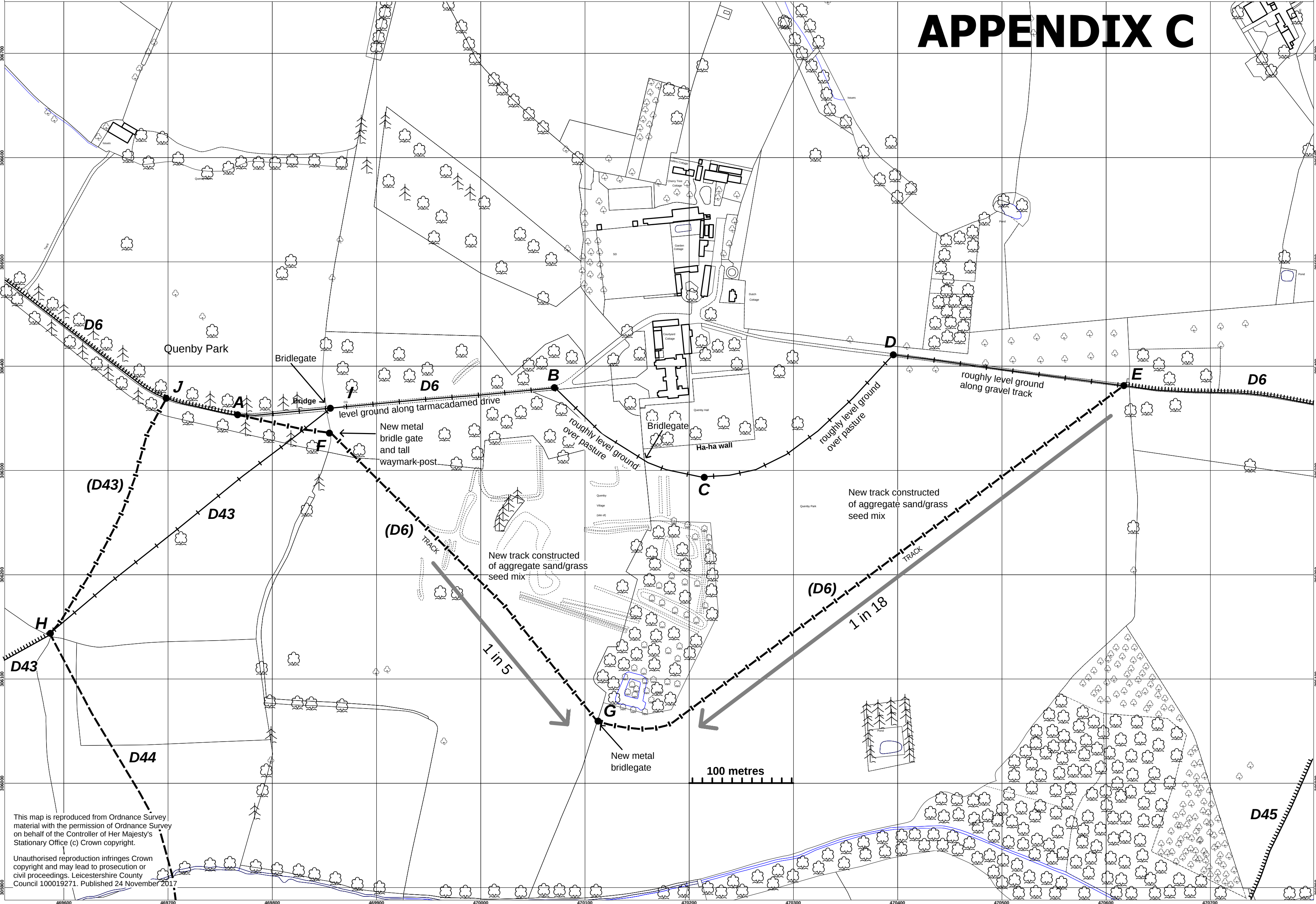
Please send your completed application form, together with the above additional information to -
The Safe and Sustainable Travel Team, Environment & Transport Department, Leicestershire County Council, County Hall, Glenfield, Leicester, LE3 8RJ.

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Leicestershire County Council - Site Survey Plan (28th September 2017 & 18th December 2017)

Proposed Diversion of Public Bridleways D6 and D43 at Quenby Hall, Hungarton

APPENDIX C



- Key**
- +—+— Bridleway proposed to be diverted
 - - - - - Proposed alternative bridleway
 - ||||| bridleway unaffected
 - - - - - Footpaths

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Environment & Transport Department,
County Hall, Glenfield,
Leicestershire LE3 8RJ
email footpaths@leics.gov.uk
Director, Anne Carruthers

 **Leicestershire County Council**

Plan No. 2483/SS
Scale 1:2500

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APPENDIX D

Site Photographs

Existing Bridleway D6



Photo 1: This is the view of Quenby Hall taken from point 1 on the photograph plan, on the existing route of the bridleway. Quenby Hall is a Grade 1 Listed country house in Grade 2 listed Park Land. Building work began on the house around 1620 and completed around 1630.



Photo 2:

A further view of the Hall taken as the bridleway leaves the tarmacadamed track and heads towards the south of the Ha-ha wall.



Photo 3: near the south-western corner of the hall the bridleway passes through a short field gate. This view is looking back towards the access drive leading to the Hall.



Photo 4: A view of the Ha-ha wall as the bridleway passes through the aforementioned gate heading east. The legal line of the bridleway does not follow the wall but swings out in a semi-circle to a maximum of around 30 metres from it but by the gate it is quite close to the wall.



Photo 5: A view of the Ha-ha wall and the Hall from the bridleway which at this point is around 30 metres away from the wall.



Photo 6: A view of woodland and Billesdon Coplow (a local landmark) in the right middle distance as seen from the existing route. This section of bridleway crosses unsurfaced grassland as it passes in a semi-circular fashion around the southern side of the Hall.



Photo 7: Another view of the ha-ha wall and Hall behind.



Photo 8: The view east from the bridleway as it swings passed the ha-ha wall.



Photo 9: This is a view back towards the Hall as the bridleway swings around in a curve and heads towards the stony track on the eastern side of the buildings.



Photo 10: At this point the bridleway reaches the stony/gravel track on the eastern side of the hall (point D on the plan). This view is looking back towards the Hall with the bridleway curving around to the left, eventually swinging passed the far corner of the ha-ha wall just visible in the mid-left part of the picture.



Photo 11: The existing bridleway follows this track eastwards through the open gateway. The gateway marks the end of the proposed diversion (point E on the plan).



Photo 12: This is the view looking back along the existing route of the bridleway (from point E on the plan) looking towards the Hall. The proposed diversion route would head off at 45° from the track, to the left of picture, along a grassy/gravel track, just out of picture.

Proposed alternative Route for Bridleway D6**Photo 13:**

The proposed alternative route of the new bridleway would depart from the existing route at point A on the plan some distance before it reaches this bridge. This is a view from the bridge near point 'I' on the plan.



Photo 14: The proposed route follows a grassy/stony track departing from the original route at around 45° and does not pass as close by the Hall as the original route. The hall cannot be seen close up but rather viewed as it sits in the wider landscape.



Photo 15: The proposed alternative route follows this track down hill on a gentle gradient that does increase to around a 1 in 5 slope at its maximum for a short distance.



Photo 16: There are fine views of the surrounding countryside available from the alternative route.



Photo 17: However the Hall is now more distant.



Photo 18: A view looking back up the proposed alternative route towards point 'I' on the plan and the aforementioned bridge.



Photo 19: A view looking down the alternative route, with Billesdon Coplow in the background. This is the steepest section of the alternative path.



Photo 20: The alternative route then passes through this bridlegate at point 'G' on the plan.



Photo 21: Photos 21, 22 23 and 24 represent various different views of the countryside from the alternative path.



Photo 22:



Photo 23:



Photo 24:



Photo 25: This view of the Hall is taken from the alternative route at the closest point the route comes to the south-eastern side of the building. In winter the Hall can be seen but in summer it would be obscured by trees.

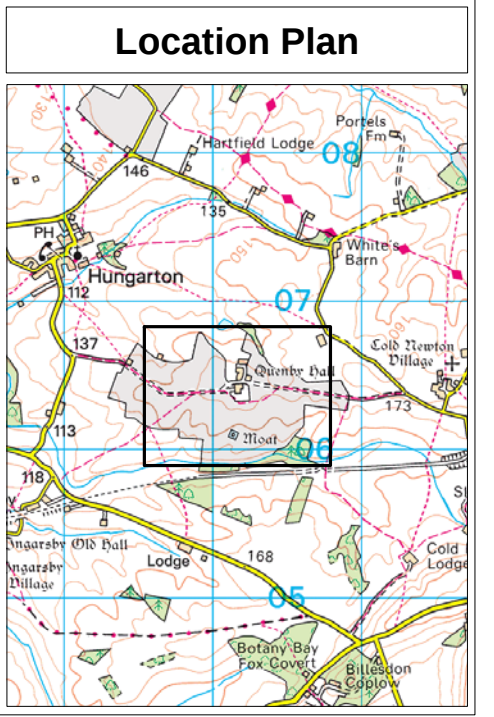
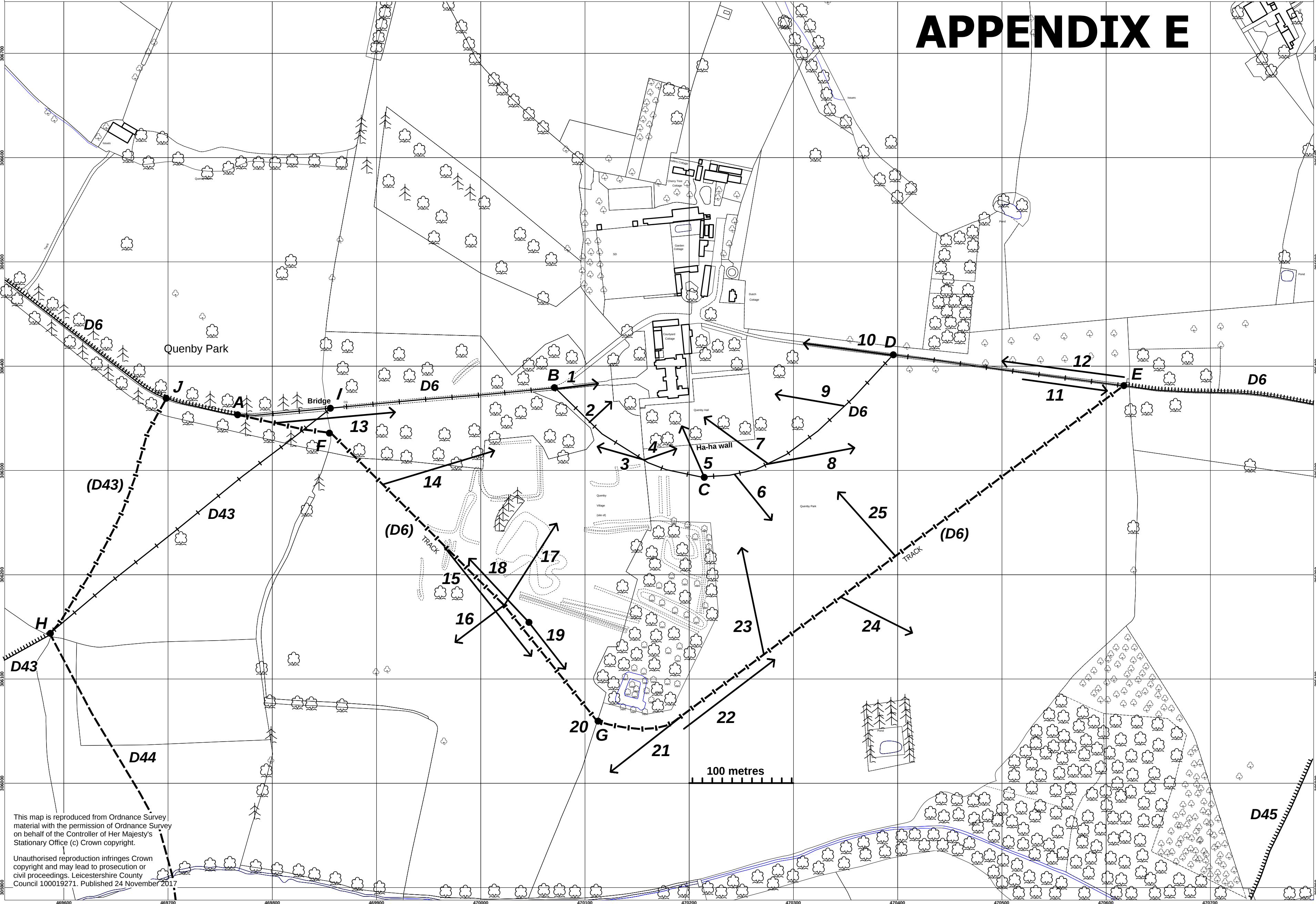
Summary.

From the above photographs it can be seen that the existing route offers good views of Quenby Hall. The alternative route provides less good close up views of the Hall but in many respects better views of the landscape and surrounding countryside. The question is therefore does the gain of the latter compensate sufficiently for the loss of the former?

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Leicestershire County Council - Site Survey Plan (28th September 2017 & 18th December 2017)
Proposed Diversion of Public Bridleways D6 and D43 at Quenby Hall, Hungarton

APPENDIX E



- Key**
- +—+— Bridleway proposed to be diverted
 - - - - - Proposed alternative bridleway
 - ||||| bridleway unaffected
 - - - - - Footpaths

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Environment & Transport Department,
County Hall, Glenfield,
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email footpaths@leics.gov.uk
Director, Anne Carruthers

 **Leicestershire County Council**

Plan No. 2483/S
Scale 1:2500

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Proposed diversion of D6 and D43

I have lived in Hungarton since 1985 and frequently walk along bridleway D6.

From the advice given in two government documents, “A guide to definitive maps and changes to public rights of way – 2008 Revision” published by Natural England and “The Planning Inspectorate - Rights of Way Section - General guidance on public rights of way matters 9th Revision January 2018”, it seems that there are two relevant criteria to be considered before this diversion application could be approved.

1. the effect that the diversion would have on the public enjoyment of the way as a whole
2. that the diverted path will not be substantially less convenient to the public in terms of, for example, features which readily fall within the natural and ordinary meaning of the word ‘convenient’ such as the length of the diverted path, the difficulty of walking it and its purpose.

There is no doubt that public enjoyment of the bridleway would be very substantially adversely affected by this diversion. At present the bridleway, which is well used both by serious and casual walkers as well as horse riders, offers a magnificent view of the facade of Quenby Hall as you approach from the west along the driveway. In addition there are panoramic views of the landscape on both sides as the track follows a prominent ridge. Approximately 100m from the hall the path goes to the right of the hall and down slightly, passing the south side of the hall at a minimum distance of 50m from it and the other side of a ha-ha some 2m below the hall’s garden, so very well hidden from the hall.

What is proposed would divert walkers off the driveway in a sharp rightwards direction some 340m from the hall, and would take away the panoramic view of it, and the landscape either side, for which this bridleway is widely known and appreciated. It would continue, at a minimum of 220m from the hall, dropping quite steeply and going round the back of a wood, from which the hall is completely obscured. It would then climb up to rejoin the current track some 340m from the rear of the hall.

The proposed diversion would be substantially less convenient to the public, comprising a lengthy diversion over undulating terrain, involving substantial descent and climb and having a dog-leg in the middle of it. The council must have regard to the needs of people with disabilities and the diversion would prevent them experiencing the enjoyment of using the well-surfaced track to get relatively close, albeit some 100m away, to the main facade of the hall. In addition, those slightly less disabled can, currently, rejoin the track at the back of the hall and enjoy a linear walk with its amazing views. This would be rendered impossible for them with the lengthy and challenging diversion proposed. Walkers with pushchairs/buggies would be similarly discriminated against.

Mention has been made that some users abuse the route. This comes as a surprise as the previous owners, who lived at the hall for almost 50 years, never complained about any problems to my knowledge. Of course, the new owners would have been aware of the bridleway when they purchased the hall and it is of concern that there has been a recent spate of people buying country properties, in the full knowledge of nearby footpaths and bridleways, and then deciding that they want to increase their “privacy” by diverting them. Furthermore, the new owners have taken it

upon themselves to block up two gates and relocate one of them, signs have gone missing and others have been relocated, in order to try to divert people away from the hall, and along the already-constructed diversion route, the surface of which is uneven, quite steep in places, muddy when wet, and generally difficult to walk on.

I consider the Italianate garden issue to be a red herring. This could be restored without diverting the bridleway. Otherwise, an application could be made to divert the bridleway to the north side, between the house and formal gardens, meeting up with the track at the back of the hall, as it would have done originally. Furthermore, there is also no public benefit, should the garden be restored, as it would not be accessible to the public.

In conclusion, the application is made solely in order to give the owners more privacy by creating a large exclusion zone round the hall. This is despite the substantial distance the existing bridleway is from the hall and its being hidden behind a ha-ha at its closest. Locally, many houses have rights of way right outside their houses, and typically a few metres away, yet residents are able to maintain their privacy. The adverse impacts, in terms of the very significant reduction in public enjoyment and the fact that the diversion would be substantially less convenient to the public, far outweigh any benefits to the applicant and so I urge you to refuse this application.

L Faulkner
Wisteria House
Barley Leas
Hungarton
Leicestershire LE7 9JH

From: geoff barnett [REDACTED]
Sent: 02 October 2018 17:11
To: William Jackson
Subject: Re: PROPOSED DIVERSION OF PUBLIC BRIDLEWAYS D6 AND D43 AT QUENBY HALL, HUNGARTON

Dear Mr Jackson,

Here are my comments on the proposed diversion of public bridleways D6 and D43 at Quenby Hall, Hungarton.

I live locally and I have regularly walked and ridden these bridleways since 1983.

I object to the proposed diversion on the following grounds:

1. Convenience of use. From Hungarton, the RoW presently approaches Quenby Hall on a tarmac gently rising surface, passes close to the Hall on the flat, then passes towards Cold Newton on a firm dirt driveway that is also generally flat. If granted, then difficulty of walking the new route, particularly in winter, will be substantially greater and the new route will be significantly longer.
2. Public enjoyment of the present RoW. The proposed new route is in a hollow and does not command the grand approach view of Quenby Hall that the present RoW enjoys. Nor would the proposed new route afford the panoramic views that the present RoW enjoys. *Further, footpaths and bridleways in England and Wales will more often than not go directly to an ancient feature, be it a long established farmhouse or a grand ancient hall. In this respect they bear a historical weight that should not be lightly discarded. The proposed new route has no such gravitas.*
3. The applicants knew these RoW existed when they bought the property. Caveat Emptor. It is not for the Council Tax payers to bear the cost of diverting RoW, to please the purchaser of a property who knew full well that they were there when they made that purchase. The proposed changes would cost thousands of pounds in legal, administrative and physical implementation fees. This is a very poor expenditure of Council Tax payers money to satisfy a single property owner's privacy fixation. For goodness sake, let's step back a little here and get this into perspective; Quenby Hall is in the middle of extensive parkland, relatively speaking it is already a very private place to live.
4. I do not buy that users of this path are rowdy types. I have decades of experience of using this RoW.
5. I think that the restoration of the italianate garden is a weak and probably fictitious ground put forward by the applicants. Certainly if restored I would think that the feature would bear very little risk of damage from the clued in and country-wise users that this RoW attracts.
6. Your present official waymarking of this RoW is in error. It should be as per the Definitive Map, but in fact the present official yellow waymark posts (as opposed to the applicants' lookalike posts), pass along the southern elevated wall boundary of the Hall. *Simply waymark the middle part of the RoW properly and the applicant has more of the privacy that she/he seeks.*
7. I advise it would be my intention to object to the proposal should the Council decide to make the Order.

Yours sincerely,

Geoffrey Barnett

Keyham

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From: Vicky Dennison [REDACTED]
Sent: 24 August 2018 07:38
To: Piers Lindley
Subject: Vicky Dennison - Bridleway/footpath diversion Quenby

Good morning Piers

I have just realised why although I have no objection to the diversion of the route it is the actual surface of the diverted track that concerns me.

You stated that from a landscape point of view the scenic view was just as good if not better if you walk the new proposed path. I agree with that. But as a horse rider there is an added dimension to the enjoyment of the route and that is the ability to be able to canter freely on a grass surface.

The present stretch of route which the owners wish to alter is the very part where you can have a lovely canter.

If the owners now expect the horses to remain on the new track this robs horse riders of one of the most enjoyable elements of the bridleway.

It may look like it will blend in over time but the surface for horses is horrid, it is like walking barefoot on gravel and as such reduces the amenity of the path from 100% (lovely) to 20% (worse than hacking on a public road).

If horses can canter alongside the track then there is no problem, but if the owners put up a sign such as at Baggrave that 'horse must remain on the track' then the facility/amenity that is presently enjoyed is severely downgraded.

With regards

Vicky Dennison.

Sent from my iPad

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Comments and Objections to Proposed DiversionObjection 1

This person has lived locally and has ridden or walked the Bridleway regularly since 1983. He or she is not specific as to where 'locally' is. If it is Hungarton, then one would assume that he or she had received the publicity about our Proposals for Diversion of the Bridleway and/or attended the Parish Meeting (minutes attached). However, our response to the Objection is as follows:

1. Convenience of use – The Objector has ignored a section of the existing route which is entered up the drive from the west through a muddy gateway and onto a grass stretch (from section B to D on the map) which is often wet in wintry weather. There is a substantial distance over the ridge and furrow on the existing route which is not as easy as on the proposed diversion. The distances have been detailed elsewhere in our Application and gradients were not considered significant by the User Groups that have been consulted, nor by those at the Parish Meeting. Gradient – the proposed route will rise from the Spinney on a gentle incline, on a flatter and more solid surface which will enable those with push chairs and mobility scooter to use. Whether being pushed or assisted, walking, running, cycling or on horseback the new 12 foot wide proposed diversion can accommodate a variety of users.
2. Public enjoyment. Again, this is not considered to be diminished. Objector 2 agrees that the scenic view is 'just as good if not better'. The proposed diversion will show Quenby Hall in an elevated position from both the south-east and south-west aspects. These views show the Hall sitting above the surrounding Ha-Ha walls which sets off the splendour of the Hall and acts like a plinth to enhance the Hall in its setting. The Hall will be framed amongst the historic Cedar and Oak trees which date back hundreds of years. These trees cannot be appreciated in the same way in their current setting and especially against the backdrop of the Hall when viewed hard up against them. A new view of the Coplow will be seen and enjoyed. A new view of the old railway line can be seen and enjoyed. The new view of the Hall from the south-west is the best one across the landscaped old quarry which is grassed and to be sown with wild flowers. Around this area we plan to position a bench. The new views of the Billesdon Coplow and disused railway line are also appreciated. Further along there will be the view of the restored Medieval garden and a site board erected to inform all of its history. Continuing on the route, we plan to position another bench to the south-west of the Hall to provide another view which can be enjoyed. The site board and benches were suggestions from Parishioners.
3. The assertion by the Objector about where 'paths more often than not go directly to an ancient feature'...etc is of no relevance in this context. And 'gravitas' which means 'seriousness' is odd.
4. The further remark about knowledge of a Right of Way on purchase is of no relevance. The criteria to be considered on the Proposed Diversion are quite clear and have been set out. As for Costs, we have paid the fee to the Authority and have been as helpful as we can by writing personally to user groups and meeting them to assist and support the process for the Council.
5. The assertion that Council Tax spending is being used to 'satisfy a single property owners' privacy fixation' is ridiculous. Anyone with any common sense will have seen how welcoming we are to local people who come to the Hall for various reasons –whether carol singing, or a WI Garden Meeting or the recent Croquet Day. We have made many friends with many people in the Village either at our home or in the Local Pub.
6. 'Rowdy'...-meaning noisy or disorderly is not an assertion that we have made. Some have abused the use of the path, but not in that way.
7. The Objector makes an assertion that the restoration of the Medieval Garden is 'fictitious'. It is genuine.
8. In the Objector's final statement, he or she states that they will take it further if the Council decides to make the Order! If an Order is made, surely this is granted after careful consideration as to the

fulfilment of the criteria and after consultation with all user groups, their satisfaction and due process being followed. This unhelpful comment rather distorts their objection and suggests they are of a personal nature.

Objection 2

1. We have spoken with a local rider who uses the proposed diversion regularly. She was most surprised we canvassed her thoughts about the surface. She was very happy to be quoted and went on to say "I absolutely love the proposed route you have created; it offers so much more interest and the surface is far better without the mud. The drainage and undulations have been dealt with and the ground feels safer to ride on as it's got more of a grip. I am hoping to use it a lot more during the winter months which will be great as it'll keep me off the dangerous roads".
2. We regularly see horse riders using the proposed diversion as the route of choice.
3. On 5th September 2017 we met with Vicky Allen, Leicestershire & Rutland Bridleways Association, who was also representing Alex Pyper and Janette Benskin from the British Horse Society. Vicky Allen reported that she was 'very satisfied' with the work done to create a more solid surface to ride on.
4. We are not proposing to erect signs as mentioned by the Objector.

Objection 3

This person has lived in Hungarton for a longish time and clearly has been very interested in the proposed diversion. The proposal was fully discussed at the Parish Annual Meeting in May 2017 and he or she would have been present.

1. We were pleased to attend following an invitation by the Parish Chairman Mrs Penny Faulkner and also put an entry in the Parish News as suggested so there was good attendance by Parishioners. We explained our proposals to the meeting and answered questions raised. There had been some misunderstanding about the proposed route particularly as to the gradient which some thought would be steep having only seen the small plan on the Noticeboard. So, we explained it would be gradual in both directions, and gave specific measurements. One of the older residents, who had worked the land and had suffered a stroke in recent years, had reduced mobility. He confirmed that he had no problem with the diversion after he had seen and walked part of the route down which involved walking to the bottom of the Spinney.
2. The Parishioners were interested in our proposal to reinstate what is believed to be a Medieval Moat and Fish Ponds and the terracing that we have discovered. We said that there would be a low-level fence so that walkers and riders could enjoy the views into the Spinney and that we intended to employ a Specialist Historian to assist us with the renovation.
We detailed our proposals for the surfacing of the new Path/Bridleway, how this would meet the requirements over Ridge and Furrow Pasture and would be grass-seeded to blend in with the Pasture. Then we withdrew to leave those at the meeting to discuss the issues freely. After the meeting we were informed that our proposal had received overwhelming support and this was recorded in the Minutes,
3. We believe that the overwhelming support is because of an appreciation that the Proposed Diversion will be significantly more enjoyable and will not be significantly less convenient.
4. There are magnificent views of the surrounding hills and hollows including a view of Billesdon Coplow and down to the Old Railway which are not available from the existing route of the bridleway on top of the hill. The new view of Quenby Hall sets off the splendour of the Hall sitting above the surrounding Ha-Ha Walls acting like a plinth to enhance the Hall in its setting.
5. The abuse of the path close to the Hall is something we can detail – especially by individuals who climb up the Ha-Ha and trespass on the garden above. Sometimes the intrusion has been to take photos, sometimes even to picnic on the front or rear garden. Upsetingly, on three occasions, people refused to leave our garden after being politely asked to do so.
6. The 'Objections' also contains mere Generalisations and the Opinions of the writer.

7. The objector states that two gates have been blocked up and one gate has been relocated. They go on to say that signs have gone missing and others have been relocated in order to divert people away from the Hall. This is simply untrue. We have always worked with the Council and respected any request for access. Furthermore, we took it upon ourselves to take guidance from Nigel Dunmore to get our signage correct before erecting it.

Comments from Archaeologist Richard Clark

We can confirm that we have no intention of changing the proposed diversion. Furthermore, we believe the proposed diversion will help to keep users on the track and thus avoiding them walking off around the deserted village area (between Points F and G) as shown on the map.

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DEVELOPMENT CONTROL AND REGULATORY BOARD

10th OCTOBER 2019

LEICESTERSHIRE COUNTY COUNCIL
BURBAGE (SKETCHLEY HALL) TREE PRESERVATION
ORDER 1967

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT





Purpose of Report

1. To consider an application by Mr. and Mrs. Bradley of 4, Manor Way, Burbage LE10 2NN to fell a sycamore tree T1.

Background

2. The sycamore tree T1 is in a 3.6ha Area Tree Preservation Order consisting of mature broadleaf and conifer trees located in the gardens of 47 residential properties and in the grounds of Sketchley Hall Priory Clinic.
3. The grounds and parkland surrounding Sketchley Hall were established with trees in the 19th century and in the early 1970s the area was developed into a residential estate. The sycamore tree T1 is in a line of mature Corsican pine, sycamore and

cedar trees that formed the eastern boundary of the parkland. The sycamore T1 and the line of trees are now growing in the rear gardens of 9 detached residential properties on Manor Way.

4. The application was submitted by the Agent Mr. Mike Beddow of Beddow Tree Specialists.

Consultations

Borough Council

5. Hinckley and Bosworth Borough Council objects to the felling of the sycamore tree T1 as the tree, along with other protected trees in the rear gardens of properties on Manor Way contributes significantly to the amenity of the area.

Parish Council

6. Burbage Parish Council objects to the felling of the sycamore tree T1 as it is essentially a healthy tree and has amenity value in the area.

Local Member

7. No comments received.

Local Residents

8. The residents at 2, Manor Way support the felling of the sycamore tree T1 for the following reasons: leaves and debris from the tree block roof gutters causing water to overflow into the garage and cloakroom and 3 branches have recently fallen in to the garden narrowly missing the kitchen window.

Issues

9. The Applicants wish to fell the sycamore tree T1 for the reason that the sycamore tree T1 is reducing their enjoyment of the property, particularly when in leaf by casting a dense shade over most of the garden throughout the day, that causes damp conditions on paved surfaces making them slippery requiring frequent cleaning, combined with the infestation of the tree by aphids that produce honey dew that covers the garden seating, the clothes line and ornamental plants with a sooty mould. Branches regularly fall on to the garden from the tree. The Agent has advised that the sycamore tree T1 has a potentially weak union at the base between the 2 co dominant stems and that should one of the stems fail it could cause potential damage to both property and injury to users of the garden.
10. The mature sycamore tree T1 (see Appendix 1 for photographs) is located 12.5m from the rear elevation of the house and 25.0m from the highway. The stem splits at 1.3m to form 2 co-dominant stems 79cm and 74cm in diameter with a tree height of 24.0m. The union between the 2 co-dominant stems is moderately acute and has included bark on the east side of the stem. The union appears to be stable with no evidence of splits developing between the 2 stems. The crown is 16.0 x 16.0m in width (201m² in area) and overhangs the neighbouring property by 4.0m. The lowest branch of the crown is 4.0m from the ground. The foliage in the crown is in good physiological condition with minor dead wood.

11. The sycamore tree T1 can be viewed from Manor Way and contributes to the amenity of the area.
12. The rear garden is 18.4m in length and 12.5m wide (230m² in area) and is laid to lawn with ornamental shrubs, a garden room and an early mature holly tree. The ornamental shrubs appear in good condition with little evidence of sooty mould or that they are suppressed by the shade cast by the sycamore tree T1.

Equality and Human Rights Implications

13. There are no discernible equality and human rights implications.

Conclusion

14. The sycamore tree T1 has 2 co-dominant stems that are attached at a moderately acute angle with included bark. The union appears to be stable and the risk of one of the co-dominant stems breaking out is assessed as low. The crown of the tree covers 80% of the garden and when in leaf shades most of the rear garden. This shade is moderated by the relatively high crown allowing side light in to the garden. The honey dew that falls from the aphids that infest the sycamore leaves can be cleaned off the garden furniture and slabs. The ornamental garden shrubs did not appear to be excessively suffering from either shade or sooty mould. The shade cast by the sycamore T1 does cause the Applicants a moderate loss of enjoyment of their property.
15. The sycamore tree T1 can be viewed from the highway and together with the line of protected trees in the rear gardens of properties on Manor Way significantly contributes to the amenity of the area. The removal of the sycamore tree T1 would have a significant detrimental impact on the amenity of the area.
16. The issues of shade cast by the sycamore tree T1 could be mitigated by the submission of an application to overall crown reduction by up to 1.6m of secondary branches no larger than 100mm in diameter.

Recommendations

17. It is recommended that consent is refused to fell the sycamore tree T1.

Reason for Recommendations

18. The removal of the sycamore tree T1 would have a significant detrimental impact on the amenity of the area.

Background Papers

The background papers used in the report are held on Environment and Transport file 2019/TPO/0172/LCC

Circulation Under the Local Issues Alert Procedure

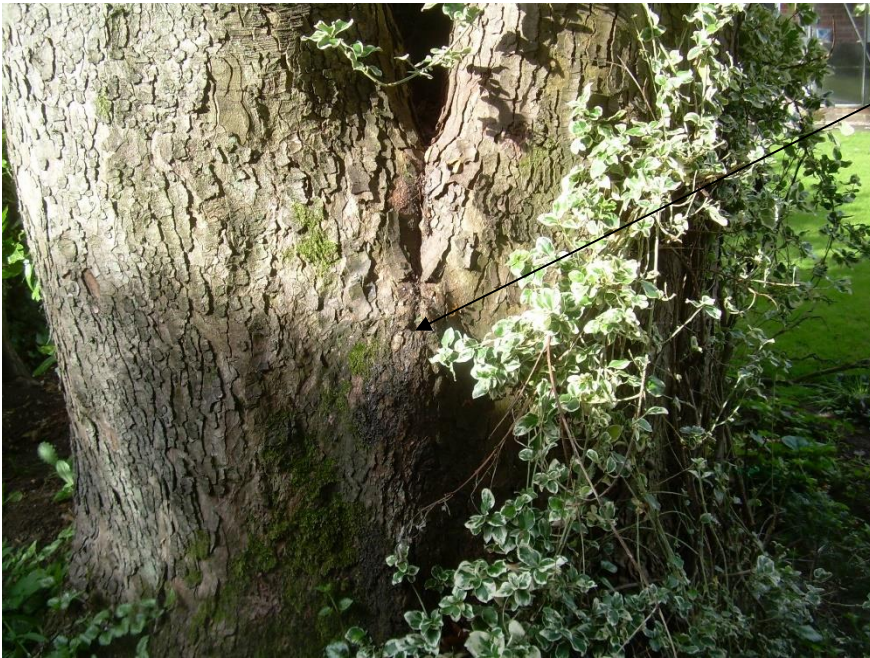
Mrs. A. Wright CC

Officers to Contact

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Landscape Officer
Environment and Transport Dept.
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APPENDIX 1 PHOTOGRAPHS

Sycamore T1



Sycamore T1 showing included bark on east side of the stem



Sycamore T1 showing
ornamental shrubs and a holly
tree



Sycamore T1 showing acute
angle of union



Sycamore T1 viewed from
Manor Way



Sycamore T1 viewed from
Manor Way



DEVELOPMENT CONTROL AND REGULATORY BOARD

10th OCTOBER 2019

LEICESTERSHIRE COUNTY COUNCIL
BIRSTALL (PARK ROAD) NO. 2 TREE PRESERVATION
ORDER 1964

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT



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Purpose of Report

1. To consider an application by Mr. and Mrs. A. Pollard of 9, Park Road, Birstall LE4 3AX to fell an oak tree T1 located on their property.

Background

2. The oak T1 is protected by an 0.42ha Area Order that includes broadleaf and conifer trees located in the gardens of 3 residential properties and The Woodlands Day Nursery.
3. Consent was granted under delegated powers on the 30th August 2017 to fell a horse chestnut tree.
4. The application was submitted with a tree report by the Agent Mr. Ian Lockington of 6, Park Road, Birstall.

Consultations

Borough Council

5. Charnwood Borough Council objects to the felling of the oak tree T1 on the grounds of loss of amenity.

Parish Council

6. Birstall Parish Council do not object to the felling the oak tree T1 and request a replacement oak tree is planted.

Local Member

7. No comments received.

Local Residents

8. A resident at 27 Walker Road has written in support of felling the oak tree T1 that overhangs the garden of the property, stating that the number of branches falling from the tree in to the garden has recently increased and is concerned that undertaking gardening work under the tree is potentially hazardous.

Issues

9. The Applicants wish to fell the oak tree T1 as it has over the last 6 years had large diameter branches break out and, on the 13th July 2019, a major low branch 50cm in diameter and 6.0m in length weighting up to 1.0 tonne broke out causing significant damage to a vehicle parked in the grounds of 13, Park Road and damaging 20.0m of the boundary fence. The following day a further smaller diameter branch broke out narrowly missing the Applicant who was clearing up the previous broken branch. The fallen branches were found to have significant internal decay and have left wounds that are showing signs of decay in the main stem and major structural branches. The Applicants are concerned that other large diameter branches are very likely to break out potentially causing damage to both their property and that of their neighbours and putting themselves and their neighbours at risk of injury.
10. The oak tree T1 formed part of the 19th century parkland around Goscote Hall that was developed in the 20th century as a residential housing estate. The tree is in the Applicants rear garden 58.0m from Park Road and 50.0m from Walker Road. It has a stem diameter of 120cm and a height of 22.0m. The main stem splits at 7.0m in to 4 major structural branches that form a crown of over 15.0m in width. There are break out wounds on the main stem and the 4 main structural branches. The middle structural branch is 50cm in diameter has a decay cavity at 9.0m from the ground that extends 22cm in to the branch. The main branch on the east side of the stem was found to have a break out wound at 3.0m from the main stem and extends 11.0m with secondary branch growth end weighting the branch. A low large diameter branch on the north of the stem 12.0m in length grows over the rear garden of 27 Walker Road. The recent failure of the large branch of the oak T1 occurred in still weather conditions and showed signs of internal decay. The collapse of this heavy branch weakened the decayed smaller diameter branch below that failed the following day. The recent loss of the 2 branches on the west side of the tree has created a large opening in the crown that unbalances the tree. It was observed that the foliage in the crown is in good physiological condition with little dead wood.
11. The oak T1 tree can be partly viewed from both Park Road and Walker Road. It has minor amenity value when viewed from the highway. The frontages of residential properties on both sides of Park Road are screened by protected large mature trees.

12. There is sufficient space and light to plant a replacement oak tree.

Equality and Human Rights Implications

13. There are no discernible equality and human rights implications.

Conclusion

14. The oak T1 has in the last 6 years experienced failure of large diameter branches with internal decay. The recent failure of 2 branches also with internal decay that has caused damage to the boundary fencing and a neighbour's parked car indicates that the tree has internal decay through-out the main structural branches. The major middle structural branch that is now fully exposed to westerly winds has at 9.0m from the ground a decay cavity of 50% of the cross section of the branch supporting 13.0m length of branch weighing over 2.0 tonnes. This branch is at high risk of failing. The 2 over extended end loaded branches on the north and east of the tree are also at risk of failure. The oak tree T1 is potentially dangerous.
15. The loss of large heavy branches from the oak T1 is resulting in the Applicants and their neighbours not using the areas of their gardens that are under the canopy of the tree. The tree is significantly reducing both the Applicants and their neighbours' enjoyment of their property.
16. To remove the risk of branches failing, a crown reduction of over 50% in height and width would have to be carried out reducing the amenity value of the tree. This work would also leave significant wounding of the tree that would allow infection by fungal pathogens and cause it to decline.
17. Park Road is lined with protected mature trees and the removal of the oak T1 that is in the rear garden of the Applicants property would have a minor detrimental impact on the amenity of the area.
18. On balance the significant loss of enjoyment of their properties experienced by the Applicants and their neighbours outweighs the minor loss of amenity to the public.
19. There is sufficient space and light to plant a replacement oak tree as an 8-10cm girth 2.5m high standard oak tree.

Recommendations

20. It is recommended that Consent is granted to fell the oak T1 and plant a replacement oak tree as 8-10cm girth 2.5m high standard tree in the next planting season November 2019 to March 2020. Should the replacement tree die within 5 years from planting a replacement tree of the same species must be planted.

Reason for Recommendations

21. The oak tree T1 is potentially dangerous.

Background Papers

The background papers used in this report are held on the Environment and Transport file 2019/TPO/0206/LCC.

Circulation Under the Local Issues Alert Procedure

Mr. I. E. G Bentley CC

Officers to Contact

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APPENDIX 1 PHOTOGRPHS

Oak T1 viewed form 9 Park Road



Oak T1 showing recent breakout wound and broken branch stub on west side of stem



Oak T1 showing break out wounds on east branch



Oak T1 showing middle major branch with decay wound at 9.0m



Oak T1 viewed from Park Road driveway of

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**DEVELOPMENT CONTROL AND REGULATORY BOARD****10th OCTOBER 2019****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

APP.NO. & DATE: 2019/0994/07 (2019/CM/0113/LCC) – 14th May 2019

PROPOSAL: Revised restoration of quarry workings utilising the importation of suitable inert material to achieve a beneficial afteruse of the site.

LOCATION: Ibstock Brick Ltd, Leicester Road, Ibstock, LE67 6HS

APPLICANT: Mick George Ltd.

MAIN ISSUES: The effects of the development upon air quality, ecology, hydrology and flood risk, landscape, noise, public rights of way, restoration and aftercare, traffic, the contribution of the proposal to the County's waste management infrastructure, and the appropriateness of the location.

RECOMMENDATION: PERMIT subject to the conditions as set out in the appendix to the main report.

Circulation Under the Local Issues Alert Procedure

Mr. D. Harrison, CC.

Officer to Contact

Mr. P. Larter (Tel. 0116 305 7292)
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

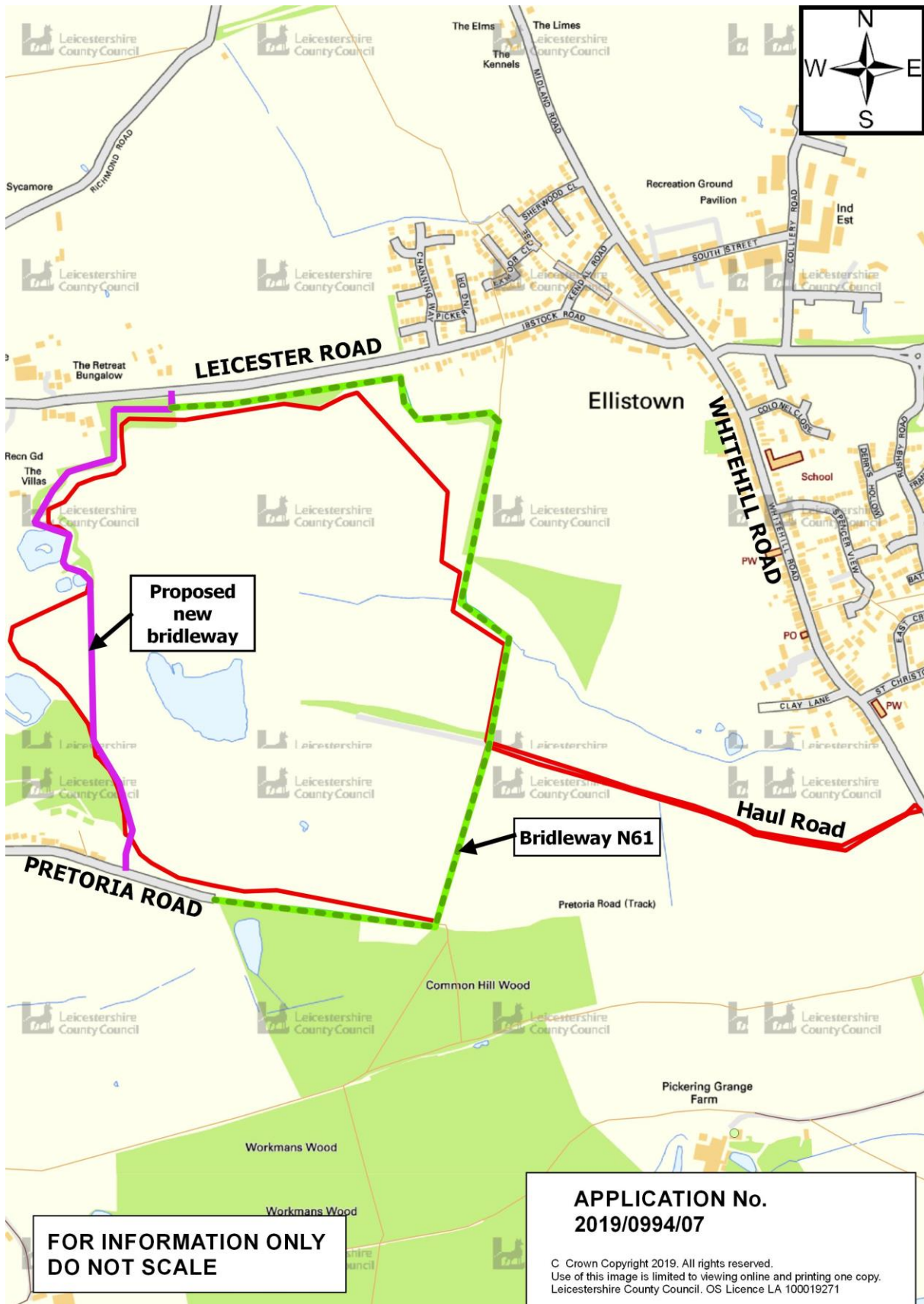
Description of site

1. Ibstock Quarry (or as the applicant refers to it Leicester Quarry) lies immediately north east of Ibstock and west of Ellistown, and approximately 1.5 kilometres south of Coalville. Planning permission for the extraction of clay at Ibstock was first granted in 1947 under an Interim Development Order (IDO). Further planning permissions for clay extraction were granted in 1951, 1957, 1958 and 1968. In 1998 the operator submitted an application for the consolidation of the existing planning permissions for clay extraction and the extension of the quarry east and north east of the original quarry, i.e. towards Ellistown. This application was granted in 1999.
2. More recently this 1999 planning permission, alongside other ancillary permissions was reviewed in 2015 and a schedule of 57 conditions now controls the mineral extraction operations at Ibstock Quarry (reference 2015/0262/07). The schedule of new conditions for Ibstock Quarry allows the extraction of clay until 28th February 2059 and for site restoration to be completed by 28th February 2061. The current, approved, restoration of the site is to take place without the importation of material and thus is a large water body with peripheral woodland, arable agricultural and species rich grassland. Provision was put in place for the protection of the existing vegetation, new public rights of way, and, importantly, limits on noise from the operations and dust mitigation.
3. Residential properties are adjacent to the current extraction to the north-east, north-west and south-west, on Leicester Road and Pretoria Road. However, these are well screened from the operations by mature vegetation and the existing topography. To the west of the quarry are the brickworks and Ibstock's head offices and the remainder of the quarry is surrounded by agricultural land. Public bridleway N61 runs along the northern and eastern boundary of the quarry and public bridleway N101 runs to the south, forming part of Pretoria Road. The site is located within the boundary of the National Forest.

Description of Proposal

4. The proposal is by Mick George Ltd. to infill the current quarry void and then to progressively restore the remainder following extraction of the brick clay. The application area is 54.95 hectares in size and remains in the ownership of Ibstock Brick Ltd. and they will continue to extract clay and operate the adjacent brickworks. The intention is to start infilling at the south western end of the site and to work northwards towards Leicester Road, then go east and then south. In effect, the infilling would follow the extraction of the clay.

2019/0994/07 – continued



2019/0994/07 – continued

5. The application states that the restoration of Ibstock Quarry is currently permitted to end by February 2061 but that this proposal, if permitted, would extend the restoration period by six years. However, the application predicts that by 2061 over 90% of the site will have been restored to the new levels contained within this application. Only inert material will be utilised in the infilling and it is anticipated that some 250,000m³ of inert material will be imported per annum, equating to a maximum throughput of 450,000tpa. The application states that 14 full time employees would be employed as a result of the development. The application contains an environmental statement which covers hydrology, landscape, noise, and traffic. Other matters such as dust suppression, lighting and restoration are also addressed in the planning application.

Hydrology

6. The site lies within Flood Zone 1 (land with less than a 1 in 1,000 annual probability of river flooding). Water from the site will continue to flow overland to Ibstock Brook that runs around the northern side of the site. The wetland areas proposed in the scheme will be used to ensure drainage is at greenfield runoff rates.

Landscape

7. The landscape and visual appraisal states that the site lies within the Leicestershire and Derbyshire Coalfield National Character Area and the site is heavily degraded by historic and ongoing mineral extraction operations. The site is not readily visible from adjacent residential areas and the existing trees and hedgerow around the quarry are valuable landscape elements which should be retained. However, open views would be available from the public rights of way around the site. The sensitivity of these areas is classed as high but the magnitude of change low because of the disturbance to be caused by the permitted mineral extraction. The proposed restoration provides for 23.7 hectares of woodland, 15 hectares of neutral grassland, 12.8 hectares of agricultural land and a series of wetland areas.

Noise

8. The noise assessment assesses the existing noise climate and the proposed noise levels which would be experienced at the nearest noise sensitive properties, the noise controls set by condition 24 of consent 2015/0262/07 are used as the starting point of the assessment. The predictions are that the cumulative noise impact of the mineral extraction and these proposed infilling operations could take place within the limits already set on the current mineral extraction consent. However, this is subject to appropriate on-site controls such as 'white noise' reversing alarms being utilised to reduce the potential for disturbance. Furthermore, to mitigate noise experienced at properties on Pretoria Road nearest to the development it is proposed that an acoustic fence is erected. The proposed hours of operation are 07:00-19:00 Monday to Friday and 07:00-14:00 on Saturdays.

2019/0994/07 – continued

Traffic

9. HGVs would enter and exit the site via the existing access off Ellistown Terrace Road making their way upon Victoria Road (B585). This access has been purpose built to accept HGVs and provides for the movement of clay from Ibstock Quarry to the Ellistown Brickworks. Assuming a rate of 250,000m³ of inert material being imported into the site per annum this would equate to some 120 loads a day (240 movements). With the above proposed hours of operation this would be around 20 movements each hour – one HGV in to the site every 6 minutes. A wheelwash would be installed within the site to ensure mud and detritus is not taken on to the highway. The existing haul road is a single lane but has passing bays provided along its length. The proposal also includes provision of 20 car parking spaces, 10 HGV parking spaces, and a weighbridge.

Additional Information

10. As a result of consultation on the original planning application additional information was supplied addressing the matters of hydrology and the highway.

Planning Policy

Local

11. The relevant local development plan policies are contained within the Leicestershire Minerals and Waste Local Plan (adopted September 2019) and the North West Leicestershire Local Plan (adopted November 2017).

Leicestershire Minerals and Waste Local Plan

- *Policy W1: Waste Management Capacity.*
- *Policy W4: Non-strategic Waste Facilities.*
- *Policy W5: Locating Waste Facilities.*
- *Policy W8: Waste Disposal.*
- *Policy DM1: Sustainable Development.*
- *Policy DM2: Local Environment and Community Protection.*
- *Policy DM3: Strategic Green Infrastructure.*
- *Policy DM5: Landscape Impact.*
- *Policy DM6: Soils.*
- *Policy DM7: Sites of Biodiversity/Geodiversity Interest.*
- *Policy DM9: Transportation by Road.*

2019/0994/07 – continued

- *Policy DM10: Public Rights of Way.*
- *Policy DM11: Cumulative Impact.*
- *Policy DM12: Restoration, Aftercare and After-use.*

North West Leicestershire Local Plan

- *Policy S3: Countryside.*
- *Policy D2: Amenity.*
- *Policy IF4: Transport infrastructure and new development.*
- *Policy IF7: Parking provision and new development.*
- *Policy En1: Nature Conservation.*
- *Policy En3: The National Forest.*
- *Policy Cc2: Flood Risk.*

National Guidance

12. The revised National Planning Policy Framework (NPPF) was published 19 February 2019 and sets out the Government's planning policies for England. The NPPF does not contain specific policies on waste. At the heart of the NPPF is a presumption in favour of sustainable development, namely the economic, social and environmental roles, and the need to balance economic growth with the protection and enhancement of the environment (including the minimisation of waste and pollution). The NPPF sets out that decisions should provide for a net gain to biodiversity.
13. The National Planning Policy for Waste published in October 2014 and the Waste Management Plan for England published December 2013 set out the Government's ambition to work towards a more sustainable and efficient use of waste and the desire to move the management of waste up the waste hierarchy.

Consultations**East Midlands Airport**

14. No objection subject to the addition of a condition.

Environment Agency

15. No objection.

2019/0994/07 - continued

Highway Authority – Leicestershire County Council

16. The Local Highway Authority does not consider that the application as submitted fully assesses the highway impact of the proposed development and further information is required. Without this information the Local Highway Authority is unable to provide final highway advice on this application.

Lead Local Flood Authority

17. The Lead Local Flood Authority (LLFA) advises the Local Planning Authority (LPA) that the application documents as submitted are insufficient for the LLFA to provide a substantive response at this stage.

North West Leicestershire District Council – Environmental Health

18. No response received.

North West Leicestershire District Council - Planning

19. No objection.

Natural England

20. No objection.

Western Power

21. No response received.

Archaeological Advice

22. No response received.

2019/0994/07 - continued

Ecological Advice

23. No objection in principle to the revised restoration plan – the grassland and woodland mosaic is potentially a good outcome for biodiversity. It is recommended that reconsideration is undertaken of the aftercare and long-term management arrangements, the creation of species-rich grassland, and management of soils in the grassland areas.

Landscape Advice

24. The agricultural field patterns should be more in keeping with the existing field patterns of the area. The replacement of the larger scale lake shown on the previous restoration plan with the smaller shallow wetlands will provide more opportunity for diverse habitat creation. The long-term management of the site is crucial. A plan should be provided which shows existing hedgerows and trees which are to be retained and reference to measures taken to ensure their protection. *Populus nigra* (Black Poplar) and *Thuja plicata* (Western Red Cedar) are inappropriate species to include in the proposed mixes.

National Forest Company

25. The restoration scheme is considered to have adopted an appropriate approach. The restoration scheme has been designed to ensure the proposed woodland block provides connectivity between Battram Woods to the south and isolated small woodlands around the existing clay pit. The scheme also includes wet woodland creation which is a priority habitat for the National Forest. Conditions should be imposed requiring a detailed restoration scheme, a management plan for a ten-year period post planting, details on phased restoration, early planting and management of the bridleway crossing.

Public Rights of Way Advice

26. The proposed HGV access, with 240 HGV movements to the site each day, will have a significant impact on Public Bridleway N61. Further information is required on what measures will be in place to protect the safety of users and amenity of the bridleway during the restoration period. Details regarding any proposed surfacing, signage, access barriers, fencing and adjacent planting for the new bridleway should be discussed and agreed with Leicestershire County Council, as Highway Authority, before the bridleway is created.

Ellistown & Battleflat Parish Council

27. No response received.

Ibstock Parish Council

28. No response received.

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Consultation Responses on Additional Information

East Midlands Airport

29. No objection subject to the addition of a condition.

Environment Agency

30. No further comments.

Highway Authority – Leicestershire County Council

31. The impacts of the development are acceptable and when considered cumulatively with other developments the impacts on the road network are not considered severe. A traffic signals scheme is planned for this financial year at the Ellistown Terrace Road and Victoria Road junction. With these works and the predicted HGV movements from this development the junction would have spare capacity. The response also contains the comments from Public Rights of Way who advise that a condition should be attached seeking the details of the signs to be erected where the haul road crosses bridleway N61.

Lead Local Flood Authority

32. The proposal is acceptable subject to two conditions on surface water drainage.

Natural England

33. No comment on the application.

North West Leicestershire District Council - Planning

34. No objection.

Ecological Advice

35. No further comments.

National Forest Company

36. Original comments still stand. Maintenance of woodland should be for ten years.

Landscape Advice

37. No further comments.

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Publicity

38. The proposal has been advertised by neighbour letters dated 22nd May 2019 and 31st July 2019, site notices posted on 28th May 2019 and 1st August 2019, and notices in a local newspaper published on 24th May 2019 and 9th August 2019. Five representations have been received.

Representations

39. The representations raise concerns regarding the environmental impacts of the proposal on air quality, dust, light pollution, noise and traffic. There have also been suggestions that speedbumps should be put on the access road where the bridleway crosses it and that the site could be used as an off-road track.

Assessment of Proposal

40. The application should be determined in accordance with the development plan unless material considerations dictate otherwise. In this instance, the main issues for consideration of this application relate to effects upon air quality, ecology, hydrology and flood risk, landscape, noise, public rights of way, restoration and aftercare, traffic, the contribution of the proposal to the County's waste management infrastructure, and the appropriateness of the location. The environmental statement, including the additional information, covers all the main issues of the proposal to a level sufficient to enable a decision to be made on the proposal.

General Location and Policy

41. One of the aims of the Minerals and Waste Local Plan is to direct new waste developments to specific areas of the County and to suitable priority locations. Given the type of operations proposed the site does not meet the criteria of a 'strategic' site and, therefore, Policy W4 is the starting point for assessing its suitability in terms of location. The site is upon a greenfield site (due to the site's approved restoration requirements) in the countryside. Policy W4 sets out that some types of facilities cannot be readily located in the priority locations, the landfilling of waste is one of these types of facilities.
42. Policy W5 lists those types of land to be considered for locating new waste sites. Of the four land types, existing mineral working sites are considered acceptable. Policy S3 of the North West Leicestershire Local Plan sets out the types of development that would be acceptable in the countryside, neither minerals nor waste developments are recognised. However, minerals can only be worked where they occur, and this proposed development would see the beneficial restoration of the mineral development and as set out above landfill is an accepted waste use in the countryside. Therefore, it is considered that the site accords with the requirements of Policies W4 and W5.

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Environmental Considerations

Air Quality

43. Potential sources of changes to the air quality of the area from the operation of the site are from extra HGV movements and the infilling and restoration operations through the creation of dust. The site is not in an air quality management area, the nearest is at Stephenson Way, Coalville, and there is nothing to suggest that air quality will diminish to unacceptable levels as a result of the extra vehicle movements this proposal would produce, particularly given that such movements are already occurring only some 1200 metres away at Ellistown Quarry. To mitigate the potential for dust escape from the site the applicant has put forward a set of measures that would reduce the likelihood of dust emissions, such as, use of a water bowser and sheeting of HGVs. These measures replicate those already in place at the site during mineral extraction. Representations received comment on the current state of the dust and air quality of the area but, firstly, the County Council has received one dust complaint in the last five years regarding the current activities and secondly, it is not possible to eliminate all dust emissions but to control them to a satisfactory level which it is considered these proposed measures would. However, the infilling of phase A would be close to properties on Pretoria Road and phases C and D to properties on Leicester Road and, therefore, a dust monitoring scheme should be put in place to ensure that the dust controls are effective. Subject to the addition of conditions requiring these elements the proposal is acceptable in terms of its effect on air quality and meets policies DM2 and D2.

Ecology

44. The area for the proposed infilling is already consented for the extraction of clay and thus, by the time infilling takes place the land will already have been cleared and worked. Therefore, there are no concerns that the infilling operations would affect local ecology. The only protected species found in the area were badgers and the extant consent for the mineral extraction (reference 2015/0262/07) requires surveys to be undertaken for badgers prior to soil stripping taking place. The proposed restoration would provide for a much greater mosaic and scale of habitats to be created than the current consent and, thus, in the long term should enhance the ecological value of the area.
45. On the basis of the above the proposal would ensure there is no net loss of habitat in terms of quality or quantity and would create biodiversity enhancements. Therefore, the proposal meets the requirements of Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity. Similarly, the requirements of the Habitats Directive and the Wildlife and Countryside Act 1981 have been met. On this basis the proposal is acceptable in terms of ecology and meets policies DM3, DM7 and En1.

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Hydrology/Flood Risk

46. The site lies within Flood Zone 1 which is land with less than a 1 in 1,000 annual probability of river flooding. Evidence has been provided that once infilling has been completed it is possible to control surface water runoff to greenfield rates. The Lead Local Flood Authority is satisfied with this but requires the details of the surface water drainage system to be installed to be submitted and proposes two conditions to request this information. Subject to these conditions the proposal is acceptable and accords with policies DM2 and Cc2.

Landscape

47. The existing boundary vegetation will not be affected by this proposal and its value as a screen to views in to the site is recognised. Indeed, it is difficult to achieve views of the site from many of the residential properties which adjoin the site. However, the application states that from the rights of way on the eastern side of the site views can be achieved but that the impact of infilling would be lessened because mineral extraction would have already taken place affecting the landscape. It should also be noted that as part of the mineral extraction provision is in place for top soils bunds to be formed along the eastern boundary of the site thereby reducing any potential for views to be achieved from the rights of way. Therefore, to ensure that this remains in place a condition should be attached to any planning permission to retain these bunds until such time as the infilling has ceased.
48. In terms of the long-term effect of this proposal, it is accepted that this restoration scheme would lead to a landscape of greater local value and would be more in-keeping with the local landscape than the currently consented scheme with the large water body. The restoration concept is acceptable in landscape terms but, subject to permission being granted, further details are required on the specific details of the species mix, the planting, management of the planted materials and the protection of existing trees and hedgerows. With these details required by condition the proposal is acceptable in landscape terms and accords with policies DM2 and DM5

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Noise

49. The submitted noise assessment assesses the impact of noise on the nearest noise sensitive receptors from the combined effects of landfilling and mineral extraction. The calculations show that these proposed operations, including soil placement, can take place alongside the current mineral extraction during the day without exceeding the noise limits set by condition 24 of consent 2015/0262/07. However, to ensure compliance an acoustic fence would be required to be installed in proximity to the eastern extent of the housing on Pretoria Road, Ibstock. The fence would be constructed of natural wood and be up to four metres in height. This is acceptable but in this area the topography is such that the Waste Planning Authority needs to ensure the fence is in such a location that it protects the amenity of those nearby residents and, therefore, a detailed plan should be required by condition showing the exact location of this fence (which cannot be achieved from the current larger scale plans that make up this application).
50. The hours that have been proposed for the operation of the proposed landfill are the same as those currently allowed for mineral extraction namely 07:00-19:00 hours Monday to Friday and 07:00-14:00 hours on Saturdays. There would be no working on Sundays or Public/Bank Holidays. These hours would be acceptable and ensure that there would be no additional operational hours at the quarry. Yet, to eliminate further the potential for any noise nuisance all HGVs, plant and machinery utilised in the infilling operations should be fitted with white noise reversing alarms rather than the standard reversing beepers. On this basis, the proposal is acceptable in terms of noise and accords with policies DM2 and D2 in this respect.

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Public Rights of Way

51. The current restoration scheme for the site contains for the provision of a new bridleway from Pretoria Road to Leicester Road along the western side of the site and a small permissive footpath link from the north western corner of this new bridleway westwards to Leicester Road. These new rights of way would create a circular bridleway route around the entire quarry site and provide a link to the south west to existing footpaths off of Leicester Road, Ibstock. The footpath link is outside of the area to which this application relates and would remain to be provided by Ibstock Brick under the extant ROMP consent. This current applicant has committed to providing the bridleway in the same location as that already consented, although about half of this is outside of the application boundary and will, as per the permissive footpath, remain to be provided by Ibstock Brick by 28th February 2061. Notwithstanding this, with the infilling of the site there is much greater potential for additional public access and it is considered that within the woodland and neutral grassland areas public access should be afforded and thus the detailed restoration scheme should provide for this.
52. The proposed haul road in to the infilling area is the existing haul road off of Whitehill Road, Ellistown. At around 800 metres off the highway the road crosses bridleway N61. Advice received by the Highway Authority is that signs are required where the bridleway interacts with the haul road to secure the protection of users of the bridleway and that a scheme for this can be requested through condition. Comment has been made on the use of speedbumps on the haul road either side of the bridleway crossing – this has not been requested by the Public Rights of Way team and, furthermore, it is considered that these have the propensity to increase noise disturbance as vehicles accelerate, decelerate and cross them particularly unladen HGVs. These negative effects outweigh any benefits that speedbumps may bring. Subject to such a condition the proposal is acceptable in terms of its public access and accords with policy DM10.

Restoration and Aftercare

53. This new restoration concept contains large areas of woodland planting (23.7 hectares) and neutral grassland (15 hectares). Three fields would be created for agricultural use, on the north/north-east and east/south-east of the site. There is also provision for new hedgerows and small water bodies within the restoration. The site is wholly within the boundary of the National Forest and thus the priority for the restoration is woodland; native broadleaved woodland is one of the priority habitats sought by the Leicestershire Biodiversity Action Plan and the development plan. The National Forest Company recognises the potential for the scheme to contribute towards the creation of The National Forest.

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54. Advice has been received seeking change to the shape of the proposed agricultural fields and the habitat creation to provide species rich grassland. Neutral grassland is also one of the priority habitats sought by the Leicestershire Biodiversity Action Plan and the development plan. The restoration plan contains large areas of neutral grassland that it is considered could be made species rich. Therefore, this change can be accommodated within the restoration details already required. As to the agricultural fields it is considered that the proposal is an acceptable balance between biodiversity and allowing the land owner to retain value in the land through agriculture and thus no changes are sought. It is important to note that the extant restoration scheme (with the large water body) also provides for agricultural uses but this proposal would significantly increase the scale and value of the biodiversity of the land. Therefore, it is considered that the scheme is acceptable but greater detail is still needed on the placement of soils and how this would facilitate habitat creation. It is considered that the removal of the large lake and the increased area of useable land that would result from this restoration scheme, alongside the mosaic of habitats and the commensurate biodiversity enhancements this could bring would result in a restoration that surmounts that previously consented.
55. Additional comment has been made on the five-year aftercare period following restoration of the site. The Government's Planning Practice Guidance on aftercare explains that the authority "*....cannot require any steps to be taken after the end of a 5 year aftercare period without the agreement of the minerals operator..*". The applicant has not agreed to a period greater than five years and the five-year period for aftercare accords with the development plan. This proposal meets the requirements of the development plan and the terms of policies DM3, DM6, DM12, En1, and En3.

Traffic

56. The existing access is used by Ibstock Brick to transport clay from Ibstock Quarry to Ellistown Brickworks. The site is well located to the County's HGV network and access can be made without going through Ellistown village. The applicant has estimated that 160 HGVs would access the site each day, 120 from this development and 40 HGVs already permitted to transport clay to Ellistown Brickworks. The Highway Authority considers the development to be acceptable and that the surrounding road network, and most importantly the Ellistown Terrace Road and Victoria Road junction, can accommodate the predicted HGV movements. The access was purpose built for HGVs and remains safe and acceptable for egress and ingress. Comments have been received about impact on the wider road network and the effects on road maintenance, however, the Highway Authority considers the effects acceptable and any impacts on the roads' condition normal. The applicant has put forward the intent to install a wheelwash (which is currently lacking) and this should ensure that the development does not lead to detritus going onto the highway; this would need to be installed in advance of infilling operations commencing. Subject to such a condition the proposal is acceptable in terms of its potential effects on the highway and accords with policies DM2, DM9, IF4 and IF7.

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Waste Management

57. This proposal is, in effect, a replacement for the existing infilling operations currently being undertaken at Ellistown Quarry (by the applicant). Demand for infilling of the Ellistown site with inert waste was provided and found acceptable in 2013 (reference 2013/0924/07) and there are no indications that this demand will decrease. The vast majority of the waste for this proposal would be sourced from greenfield developments and consists of soils and subsoils. North West Leicestershire District Council's extant Local Plan provides for continued greenfield developments to provide for the district's housing and employment needs from which this waste would arise. Policy W8 of the Minerals and Waste Local Plan accepts that there is a continued need for inert landfilling in the County and allocates Ibstock Quarry for inert waste disposal. Therefore, it is considered that there is a need for this development for wastes that cannot be managed in a more sustainable way.

58. The nearest similar facility (with the exception of Ellistown) to this proposal is at Lockington and it is not considered that this development would delay the restoration of this site – Lockington has been able to successfully restore sand & gravel extraction areas alongside Ellistown being operational. It is envisaged that the current infilling at Ellistown may be finished in around 12 months, but this will not complete the restoration of the quarry as the remainder of the clay still needs to be extracted. So, if this proposal was permitted works would transfer from Ellistown to Ibstock but Ellistown would still need completing. Notwithstanding that Ellistown and Ibstock Quarry infilling operations will be in the control of the same applicant there is a need to ensure that works do not move to Ibstock and remain there without completing the restoration of Ellistown (when capable of being restored). Thus, conditions should be put on any planning permission to ensure that the two sites do not operate at the same time and that works move back to Ellistown to complete the restoration of the site once all the clay has been extracted. The restoration of the site would secure landscape and biodiversity benefits. Therefore, it is considered that the proposal is acceptable and accords with policy W1, W8, DM11, and Box SA7.

Other Matters

59. The application addresses the matter of bird strikes, East Midlands Airport is some nine kilometres to the north of the site. The inert nature of the material to be used in the restoration of the quarry is not a type of material that attracts birds and the proposed restoration would not be of attraction to large bird numbers that would increase the risk of bird strikes. However, East Midlands Airport has advised that a condition be added to any planning permission to prohibit the creation of islands in the proposed water bodies to further reduce the attractiveness of the proposal to gulls and waterfowl. Subject to this condition the proposal would be acceptable and meets the terms of policy DM2. As to the potential for the use of the site by motorbikes, this does not form part of the application before the County Council and notwithstanding this, it is considered that this would not be a sympathetic land use with biodiversity and more leisurely public access aims.

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60. The application sets out that this proposal would employ 14 full time positions. It is envisaged that, in the main, these would be jobs moved from the infilling currently being undertaken at Ellistown, so, although not strictly new the protection of these existing jobs for another 40 years or so is a benefit of this proposal. Additionally, the release of this void space will ensure continuity of supply of landfill for soils and subsoils not required in greenfield construction activities in the local market place. These economic benefits should be given significant weight in this determination and this accords with the NPPF seeking the planning system to support economic growth. Finally, it is considered that all of the above would ensure that the development achieves the three dimensions of sustainable development and meets the terms of policy DM1.

Conclusion

61. This proposal is seeking, in effect, to amend the consented restoration scheme of Ibstock Quarry to create a landform which is closer to that which existed prior to mineral extraction. The proposal has been assessed against the development plan as well as national planning policies and guidance contained in NPPF and PPG and relevant statutory requirements and is considered to reflect the principles of sustainable waste development.
62. It is considered that with the imposition of appropriate planning conditions the proposed development would be acceptable. There have been no objections from statutory consultees. There are no substantive reasons to resist the proposal on grounds of the impacts on air quality, hydrology, landscape, noise, public rights of way or traffic.
63. Once operational the proposed development would facilitate the continued provision of inert landfill operations in north-west Leicestershire, securing local employment and serving local development needs. In the longer term (the proposal would extend the overall timescales of permitted site operations by six years), but the restored site would provide significant amounts of woodland, usable agricultural land, with enhanced biodiversity and public access features. Subject to appropriate conditions regarding this proposal and the infilling of Ellistown Quarry to ensure that this approval would not delay the restoration of that waste disposal site the development is acceptable and recommended for approval accordingly.

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Recommendation

- A. PERMIT subject to the conditions as set out in the Appendix.
- B. To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2015 (as amended), a summary of

How Leicestershire County Council has worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible.

Implementation

1. The development hereby permitted shall commence within three years of the date of this permission.
2. Written notification of the implementation of the development shall be provided to the Waste Planning Authority within seven days from the date of such implementation.

Scope of Permission

3. This permission relates to the infilling of the consented Ibstock Quarry (Leicester Quarry) with inert waste materials to achieve restoration levels for agricultural, grassland and woodland after-uses with supplementary water and conservation areas. This permission replaces the requirements of the following conditions of consent 2015/0262/07 dated 17th April 2015: condition 3, the restoration date contained in condition 4; and conditions 42-54 as they relate to land within the solid red line on drawing number IL Q/18/01 dated Mar 2019.

Duration

4. This permission shall be for a limited period expiring on 28th February 2067 when the development hereby permitted shall cease and any building (s) and works carried out under this permission removed and the land reinstated in accordance with the restoration details of condition 34 (thirty four).

Working Programme

5. Unless otherwise required by this permission the development shall be carried out in accordance with the following details:
 - a) the planning application and accompanying environmental statement; and
 - b) the accompanying drawings including drawing number IL Q/18/03 dated Mar 2019 and drawing number IL Q/18/04 dated Mar 2019.
6. The restoration of the site shall follow progressively from Phase A through to Phase D (South), inclusive, as shown on drawing number IL Q/18/03 dated Mar 2019.
7. Written notification of the commencement of infilling shall be provided to the Waste Planning Authority within seven days from the date of such commencement.
8. Inert waste materials only shall be imported to the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019).

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9. Within 12 months of the permanent cessation of mineral extraction at Ellistown Quarry as defined by a solid blue line on drawing number IL Q/18/01 dated Mar 2019 the infilling operations at Ibstock Quarry as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019 shall cease and not recommence until such time as the infilling and restoration at Ellistown Quarry has been completed.

Dust

10. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a dust action plan has been submitted to and approved by the Mineral Planning Authority. The scheme should include a programme for monitoring the dust emissions from the site and set a limit for those dust emissions. Once approved works shall take place in accordance with the approved scheme.
11. To minimise the raising of dust the following steps shall be taken:
 - i). Haulage roadways shall be maintained to ensure that, as far as practicable, they are free of potholes;
 - ii). Material drop height from vehicles shall be minimised;
 - iii). The speed of vehicles will be such that it minimises the raising of dust;
 - iv). All vehicles operating on site for the duration of the landfilling operations shall be fitted with upswept exhausts;
 - v). The use of water bowzers or other such means shall be used in the suppression of dust on the site and shall be utilised as necessary for the duration of landfilling, recycling and site restoration.

If, in the opinion of the Waste Planning Authority, operations give rise to substantiated complaints of dust leaving the site operations (including the tipping of inert waste) shall be temporarily suspended until such time as operations can be resumed without causing nuisance.

Ecology

12. No island features shall be added to the water bodies shown as 'Proposed Ponds' and 'Seasonal pond' on drawing number IL Q/18/04 dated Mar 2019.
13. No trees or hedgerows shall be removed as a result of this development.

Highways

14. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a scheme for the erection of signs at the crossing point of bridleway N61 and the proposed haul road has been submitted to and approved by the Waste Planning Authority. Such a scheme shall include a timetable for their installation.
15. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until wheelwash facilities (including wheelbath) have been installed and are capable of use.

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16. All HGVs exiting the site shall use, as necessary, the wheelwash facilities as set out in condition number 15 (fifteen) before entering the public highway to ensure that no mud or detritus is carried from the site onto the public highway. The wheelwash facilities shall be regularly maintained so that accumulated silt does not impair their effectiveness. In the event that any deleterious material is deposited within the public highway it shall be removed immediately.
17. All HGVs entering or leaving the site for the purposes of the infilling operations hereby permitted shall only do so via the existing access onto Ellistown Terrace Road within the solid red line shown on drawing number IL Q/18/01 dated Mar 2019.
18. The number of movements generated on to Ellistown Terrace Road by HGV traffic gaining access to and from the quarry via the clay haul road for the purposes of delivering clay to the Ellistown Brickworks shall not exceed 80 per day (i.e. 40 delivered loads to the Ellistown Brickworks per day).
19. The number of movements generated on to Ellistown Terrace Road by HGV traffic gaining access to and from the quarry via the clay haul road for the purposes of importing inert waste shall not exceed 240 per day (i.e. 120 delivered loads of inert waste to the quarry void per day).
20. All HGVs parked overnight shall be parked within the area marked as 'HGV parking area' on drawing number IL Q/18/03 dated Mar 2019.

Hydrology

21. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Waste Planning Authority.
22. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a surface water drainage scheme has been submitted to and approved in writing by the Waste Planning Authority.

Lights

23. All lights erected within the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) shall be shielded and pointed downwards. Any lights erected shall only be switched on during the permitted hours of operation.

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Noise

24. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a noise monitoring scheme has been submitted to and agreed by the Waste Planning Authority. Such a scheme shall set out the locations at which monitoring shall take place, the frequency of such monitoring and the times and days of the week of the monitoring, such noise monitoring shall take place to ensure it is representative of the full effects of noise from the development.
25. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a 1:250 plan showing the location of the proposed acoustic fence on the south western boundary has been submitted to and agreed by the Waste Planning Authority. The plan shall show the existing topography of the area.
26. Between the hours of 07:00 and 19:00 Monday to Friday and 07:00 and 14:00 Saturdays the free-field equivalent continuous noise level, LAeq, T noise levels arising from the continued development (with the exception of the temporary operations identified in condition number 27 (twenty seven)) when measured 3.5 metres from the most exposed external façade of a noise sensitive property shall not exceed the following levels at the locations specified:
 - 53 Pretoria Road - 53.1 dB (LAeq 1hr)
 - 193 Pretoria Road - 46.8 dB (LAeq 1hr)
 - The Villas - 50.2 dB (LAeq 1hr)
 - 151 Ibstock Road - 52.4 dB (LAeq 1hr)
 - Centre Bungalow, Clay Lane - 46.1 dB (LAeq 1hr)
 - 339 Whitehill Road – 55 dB (LAeq 1hr)
 - The Grange, Ellistown Terrace Road - 55 dB (LAeq 1hr).
 Measurements taken to verify compliance shall have regard to the effects of extraneous noise and where practical a correction shall be made for any such effects.
27. Noise levels arising from soil replacement, the construction and removal of soil and subsoil mounds, and site road construction (temporary operations) shall be minimised as far as is reasonably practicable and shall not exceed 70dB(A) LAeq 1 hour at 3.5 metres from the most exposed façade of any noise sensitive property. Temporary operations which exceed the normal day to day criterion set out in condition number 26 (twenty six) shall only be carried out between the hours of 0800 and 1800 Monday to Friday and the hours of 0800 and 1200 on Saturdays, and shall be limited to a total of 44 days in any 12-month period. Advance notice of the commencement of each temporary operation shall be given to the Mineral Planning Authority and its duration shall be recorded by the operator and made available upon request.
28. All machinery, plant and equipment fitted with a reversing alarm and working on the land as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019 shall be fitted with white noise audible reversing alarms.

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29. There shall be no maintenance of vehicles or machinery within the land as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019, with the exception of earthmoving / excavation machinery in the case of emergency.

Operating Hours

30. With the exception of emergency maintenance work all activities and operations hereby permitted shall only take place between the hours of 07:00 - 19:00 hours Monday to Friday (inclusive) and 07:00 –14:00 hours on Saturday. No activities or operations shall be carried out on Sundays or recognised Public Holidays.

Soils

31. Within 12 months of the commencement of infilling operations a soil management scheme shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details of the methodology for topsoil and subsoil placement and the final depths of topsoil and subsoil to be used to achieve the approved restoration. Works shall then be carried out in accordance with the approved scheme.
32. Plant or vehicles shall not cross areas of topsoil and subsoil except for the express purpose of soil replacement operations.
33. All soil stockpiles permitted by consent 2015/0262/07 dated 17th April 2015 and shown on Figures 4a, 4b, 4c, 4d, 4e and 4f, all dated NOV 14, shall be erected in accordance with these figures and hereby retained for the duration of the infilling operations.

Restoration and Aftercare

34. Within 12 months of the commencement of infilling operations a detailed landscape, restoration and aftercare scheme shall be submitted to and approved in writing by the Waste Planning Authority. Such a scheme shall include details of:
- a) proposed grass seed mixtures, fertilising, water draining or other treatment of the land including how the neutral grassland can be species rich; numbers, species, sizes and spacing of trees and shrubs to be planted;
 - b) the maintenance regime for tree and shrub planted areas; the location and type of fencing and gates;
 - c) the provision of footpaths open to the public through the neutral grassland, woodland zone A and woodland zone B as shown on drawing number IL Q/18/04 dated Mar 2019; and
 - d) timescales for carrying out the above works.
35. By 28th February 2061 the bridleway shown as 'Public rights of way – proposed' on drawing number IL Q/18/04 dated Mar 2019 shall be made open for use by the public on foot, on horseback and on pedal cycle. Once made open for use the bridleway shall remain available for the uses set out in this condition.

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36. By 28th February 2068 all permissive paths required and permitted by condition 34 (thirty four) shall be made open for use by the public on foot. Once made open for use such paths shall remain available for the use set out in this condition.
37. Prior to the infilling of inert waste in Ibstock Quarry (as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019) the infilled parts of phases 1, 2, 3, and 4 of Ellistown Quarry (as shown on drawing E1/03 revision b dated 27Jan 2014 and forming part of planning permission 2016/0332/07) shall be restored to their approved finished levels (as shown on drawing E1/17/NMA/04 dated 05/04/2017 and forming part of consent 2017/0522/07). Within nine months of the restoration required by this condition the restored areas shall be planted as per the approved restoration scheme for Ellistown Quarry.

Complaint Procedure

38. In the event of any complaint being received by the operator about the operations hereby permitted, the operator shall inform the Waste Planning Authority within 24 hours. If, in the opinion of the Waste Planning Authority, it is considered that a complaint warrants further investigation, a report shall be submitted to the Waste Planning Authority by the operator prior to further operations taking place. Where necessary, a scheme of mitigation measures shall be submitted to and approved by the Waste Planning Authority and subsequently implemented. The scheme of measures shall seek to mitigate the effects of the operation that gave rise to the original complaint.

Early Cessation

39. In the event of the cessation of winning and working of minerals (which would prejudice the achievement of final site restoration as approved by condition 34 (thirty four), which constitutes a permanent cessation within the terms of Paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, an alternative reclamation scheme shall be submitted in writing to the Waste Planning Authority for approval within 6 months of cessation. The scheme shall include the following details:
- a) the re-contouring of the area shown edged with a solid red line on drawing number IL Q/18/01 dated Mar 2019;
 - b) the removal of all buildings, plant and structures;
 - c) the re-spreading of all available soils;
 - d) the treatment of the land;
 - e) landscaping and planting; and
 - f) aftercare provision.

The approved reclamation scheme shall be implemented (excluding aftercare) within 2 years of the written approval of the Waste Planning Authority and immediately thereafter the land shall be put into aftercare in accordance with the approved details

2019/0994/07 – continued

Reasons

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the development to be monitored to ensure compliance with this permission.
3. For the avoidance of doubt.
4. To ensure that the site is reclaimed in a condition capable of beneficial afteruse in a timely manner and in the interests of amenity.
5. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
6. To provide for the progressive restoration of the site in the interests of the amenity of the area.
7. To enable the development to be monitored to ensure compliance with this permission.
8. To ensure the development remains compatible with the surrounding land uses.
9. To provide for the timely restoration of Ellistown Quarry and to ensure that the two infilling operations do not operate at the same time to reduce the potential for cumulative impacts.
10. To minimise the adverse impact of dust generated by the operations on the local community and environment.
11. To minimise the adverse impact of dust generated by the operations on the local community and environment.
12. To prevent any increase in bird species that are hazardous to aircraft.
13. To retain the existing boundary vegetation in the interest of the biodiversity and visual amenity of the area.
14. In the interest of amenity, safety and security of users of bridleway N61.
15. To ensure that deleterious material is not carried onto the public highway in the interests of highway safety.
16. To ensure that deleterious material is not carried onto the public highway in the interests of highway safety
17. To ensure the site is accessed with due regard to highway safety and the local environment.

2019/0994/07 – continued

18. To ensure the site is accessed with due regard to highway safety and the local environment.
19. To ensure the site is accessed with due regard to highway safety and the local environment.
20. To minimise the adverse impact of noise generated by the movement of HGVs on the local community and environment.
21. To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems though the entire development construction phase.
22. To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
23. To minimise the adverse impact of light generated by the operations on the local community and environment.
24. To allow the Waste Planning Authority to monitor compliance with the permitted noise levels.
25. To ensure that the acoustic fence is in the best location to afford noise mitigation benefits.
26. To minimise the adverse impact of noise generated by the operations on the local community and environment.
27. To minimise the adverse impact of noise generated by the operations on the local community and environment.
28. To minimise the adverse impact of noise generated by the reversing of vehicles on the local community and environment.
29. To minimise the adverse impact of noise generated by the operations on the local community and environment.
30. To minimise the adverse impacts of the operations on the local community and environment.
31. To ensure the soil resource is protected and to ensure there is sufficient soil depth to achieve the restoration of the site.
32. To minimise structural damage and compaction of the soil and to aid the final restoration of the site.
33. To minimise the visual, noise and dust impacts of the operations on the local community and environment.
34. To ensure that the site is reclaimed to a beneficial afteruse at an early date and in the interests of amenity.

2019/0994/07 – continued

35. To ensure the site can be accessed by members of the public.
36. To ensure the site can be accessed by members of the public.
37. To ensure that prior to infilling beginning at Ibstock the Ellistown site is left in a restored and satisfactory condition.
38. To ensure the site does not become a source of nuisance to those living and working in the area.
39. To ensure reclamation of the site in the event of the cessation of mineral working.

Note to applicant

Given the change to the operations at Ibstock Quarry the site shall be subject to a minimum of four paid monitoring visits in the first year of operation. After this period the Waste Planning Authority will review the situation to ascertain if the number of visits should be amended.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the following applications.

EQUAL OPPORTUNITIES IMPLICATIONS

Unless otherwise stated in the report there are no discernible equal opportunities implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Young People's Service and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970, the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Disability Discrimination Act 1995. You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPLUSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

Section 70(2)	:	determination of applications;
Section 77(4)	:	called-in applications (applying s. 70);
Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
Section 92(6)	:	power to vary applicable period for outline planning permission;
Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices;
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.



**Leicestershire
County Council**

DEVELOPMENT CONTROL AND REGULATORY BOARD

10th OCTOBER 2019

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

APP.NO. & DATE:	2017/1380/03 (2017/CM/0237/LCC) – 8 th August 2017
PROPOSAL:	Extension of the period for the operation of the Shawell roof tile works to 31st December 2030 or one year after the permanent cessation of sand and gravel production at the adjacent Shawell Quarry processing plant, whichever is sooner.
LOCATION:	Shawell Tileworks, Gibbet Lane, Shawell, Leicestershire, LE17 6AB (Harborough District).
APPLICANT:	Monier Redland.
MAIN ISSUES:	Impact of the proposal upon the highway, the local landscape and the appropriateness of the continuation of this use in this location.
RECOMMENDATION:	PERMIT subject to the conditions as set out in the appendix.

Circulation Under Sensitive Issues Procedures

Mr B.L. Pain, CC.

Officer to Contact

Mr. P. Larter (Tel. 0116 305 7292)
Email: planningcontrol@leics.gov.uk

2017/1380/03 – continued

PART B – MAIN REPORT

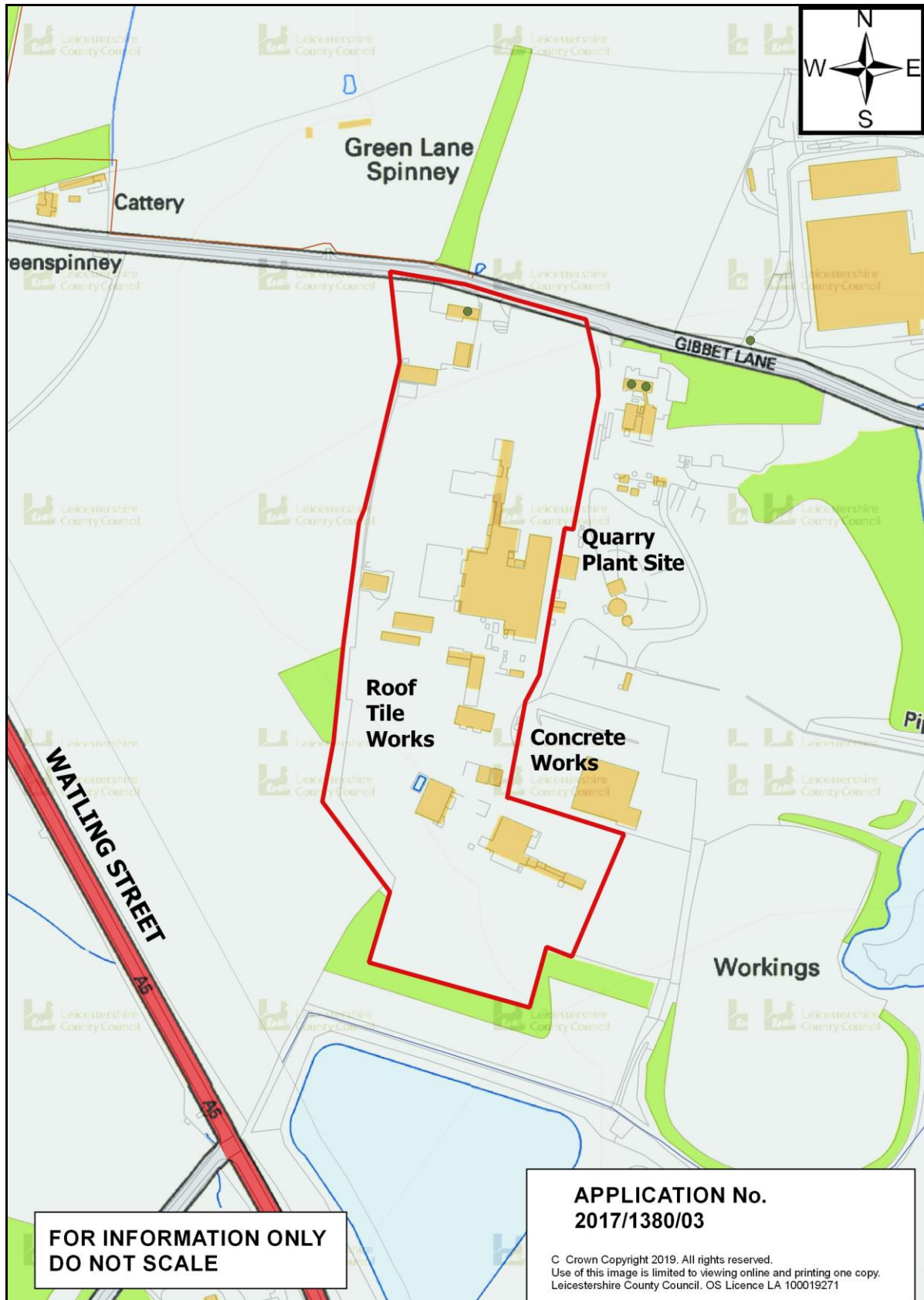
Description of site

1. Monier Redland Ltd., operate a roof tile production facility near to Shawell. The facility is located on the south side of Gibbet Lane, a narrow road linking the settlement of Shawell with the A5/A426 junction to the west of the site. Shawell Quarry/Cotesbach Landfill is located on the northern side of Gibbet Lane whilst the quarry processing plant, a redundant concrete works, an inert recycling operation, concrete batching plants and storage areas are to the south of this lane. The quarry processing plant, concrete works and storage areas abut the eastern boundary of the roof tile works. The area to the immediate south of the tile works is silt lagoons related to the mineral extraction operations. Whilst the area to the west is countryside, applications are with the County Council to extract mineral from this land (references 2017/0117/03 & 2018/1457/03). The nearest residential properties to the site are those to the west towards the A426/A5 roundabout.

Description of proposal

2. The tile works has been present in this location, in one form or another since the 1960s. The tile works was located here to make use of the sand extracted from the adjacent Shawell Quarry. The principal planning permission (reference 87/1036/3 as amended by permission reference 89/1322/3) allows the retention of the tile works until 29th September 2020 or the cessation of mineral extraction at the adjacent quarry, whichever is the earlier. There have been a number of subsequent planning permissions granted by the County Council within the tile works site for additional buildings and these are all also temporary.
3. In 2006 an application was made to extend the site to the south. The 2006 application was for the creation of a hardstanding area for the storage of tile products. This extension then allowed existing hardstanding in the south east part of the site to be used by the, then operational, adjacent concrete works. To mitigate the impacts of this new hardstanding a scheme of landscaping was submitted and approved. This hardstanding is temporary until 29th September 2020 or one year after the permanent cessation of the operation of the tile works, whichever is the earlier (reference 2006/0333/03). The area of the tile works covers some 9.2 hectares.
4. This proposal is to extend the temporary nature of the areas used by the tile works until 31st December 2030 or one year after the permanent cessation of sand and gravel production at the adjacent Shawell Quarry processing plant, whichever is the sooner. The justification for the continued presence of the tile works is that it uses sand from the adjacent quarry.

2017/1380/03 – continued



2017/1380/03 – continued

Planning Policy

Local Policies

5. The development plan in this instance consists of the Leicestershire Minerals and Waste Local Plan (LMWLP) (September 2019) and the Harborough Local Plan 2011-2031 (April 2019). The relevant policies and proposals are set out below.
 - *Policy M11: Safeguarding of Mineral Resources of the LMWLP.*
 - *Policy M13: Associated Industrial Development of the LMWLP.*
 - *Policy DM1: Sustainable Development of the LMWLP.*
 - *Policy DM2: Local Environment and Community Protection of the LMWLP.*
 - *Policy DM5: Landscape Impact of the LMWLP.*
 - *Policy DM9: Transportation by Road of the LMWLP.*
 - *Policy DM11: Cumulative Impact of the LMWLP.*
 - *Policy DM12: Restoration, Aftercare and After-use of the LMWLP.*

Harborough Local Plan 2011-2031

- *Policy GD3: Development in the Countryside.*
- *Policy GD5: Landscape and townscape character.*
- *Policy BE1: Provision of new business development.*
- *Policy BE3: Existing employment areas.*
- *Policy IN2: Sustainable transport.*

National

6. The revised NPPF (National Planning Policy Framework) was published 19 February 2019 and sets out the purpose of planning as helping to achieve sustainable development and to seek jointly and simultaneously economic, social and environmental gains. The NPPF states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, providing net gains in biodiversity.

2017/1380/03 – continued

Consultations

Harborough District Council - Planning

7. No objection to this proposal.

Harborough District Council - EHO

8. No reply received.

Highway Authority

9. No objection. The County Highway Authority CHA has introduced weight restrictions on Gibbet Lane and Catthorpe Road in 2017 to alleviate local residents concerns and improved signing in the area to ensure HGVs use the most appropriate routes. Based on the information provided, the development does not conflict with paragraph 109 of the National Planning Policy Framework (2019).

Shawell Parish Meeting

10. An extension of up to 10 years is inappropriate; a shorter timeframe commensurate with the forecast life of the quarry will be sufficient. Any extension to the operation should be conditional on timely resolution of issues such as intrusive floodlighting, litter on carriageway and hedgerows, vehicle movements through the village, and a commitment from Redland to improve their response to any further issues. The original planning consent requires restoration of the land to its original use. The Council is very concerned that this may be relaxed, or that the site would be classed as “brownfield” making it vulnerable to alternative development. The original condition needs to be reinforced, and given the timescales for closure, the Council should expect to see in any extension plan which parts of the plant will continue and how the remaining plant will be dismantled and the site restored.

Publicity

11. The proposal has been advertised by neighbour letters dated 10th August 2017, site notices posted on 17th August 2017 and 12th August 2019, and a notice in a local newspaper published on 9th August 2017. No representations have been received within the prescribed period.

2017/1380/03 – continued

Assessment of Proposal

12. The application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the main issues for consideration relate to the impact upon the highway, the local landscape and the appropriateness of the continuation of this use in this location.

Highways

13. The details provided by the applicant on the impact on the Highway estimate that in a year the site will use 95,436 tonnes of raw material to produce tiles. Of this, 72,324 tonnes is sand (and thus the dominant material in tile production). This is all sourced from the adjacent Shawell Quarry and this (with the reject tiles sent to the adjacent Shawell Quarry plant processing area) results in 2,739 HGV movements that avoid moving on the Highway; a gate between the two sites enables these movements. However, only around 50,000 tonnes is sand actually produced from Shawell, the remainder is other sand/material sourced from Shawell Quarry but not produced there such as Rugby/Mountsorrel Tile Sand Blend (RM). So, although this does not enter the tile works by the Highway it is, nevertheless, transported to the immediate area by road. There is also some 39 tonnes of silica sand that is imported in to the tile works that is not available from Shawell.
14. On the basis of the above the remainder of the raw materials (23,112 tonnes) and some other materials, such as pallets, result in some 25,211 tonnes being transported in to the site via the Highway. This, with the manufactured tiles (95,436 tonnes) leaving the site results in some 11,562 HGV movements per annum. Distributing this to a weekly basis results in some 232 HGV movements, rounded to 240 to take in to account variations in vehicle sizes and loads. The other activities on Gibbet Lane, such as the quarry, landfill, concrete batching plant, the waste recovery operations, all have their HGV movements limited by planning permissions. The age of this site and the lack of recent substantive planning permissions has meant that it has not been possible to control this site in a similar manner. However, it is considered that for the benefit of the amenity of the area and for consistency this site should be similarly controlled. Therefore, it is recommended that such a condition is attached to any planning permission.

2017/1380/03 – continued

15. The sourcing of the substantial part of the raw materials for the production of tiles from the adjacent Shawell Quarry is the principal reason why the continuation of this operation is considered acceptable at this location. Therefore, any planning permission should seek to ensure that this acceptability remains and that the impact on the highway does not escalate through an increased importation of sand and the close association between the quarry and these operations remains.
16. The Highway Authority points out action has been taken to try and deter HGVs from using Shawell village but it is considered that a condition on any planning permission to control turns out of the site would assist in reducing any issues and protecting the amenity of Shawell village. Subject to the controls set out the impact of the proposal on the highway would be acceptable and meets the terms of policies M13, DM1, DM2 and DM9.

Landscape

17. Beyond the impact of the traffic to and from the proposal there is the visual impact of the buildings and the site's lighting towers. The buildings are a combination of grey and light green and are of a relatively low profile whereas the lighting towers although much taller and grey are relatively slimline. Views from the west and south are reduced with the existing vegetation on the boundary whereas views from the east are through the existing minerals processing area (although this is also temporary and with the cessation of mineral extraction would be restored). Therefore, the continuation of the tileworks would not have a significant additional impact on the local landscape. However, the acceptability of the works is only by virtue of its temporary nature and that, eventually, the site shall be restored alongside the minerals workings/operations and the area returned to a greenfield use.
18. On the basis of the above, any planning permission should contain a requirement for the site to be restored upon the cessation of the operations at the adjacent Shawell Quarry or by the date specified by the applicant (31st December 2030). This requirement should also address the issue of the cessation of tile manufacturing so that if tile production ceases the site is not left redundant and unrestored until such point as one of the other timescales is achieved. To date, no restoration scheme or restoration concept has been required or put forward for consideration but as per policy DM12 it would be expected that it would achieve a net gain to biodiversity and provide for a least one of the priority habitats of the local Biodiversity Action Plan.

2017/1380/03 – continued

19. The landscaping around the site is well established and forms an important vegetative screen that assists in reducing the visual impact of the proposal. Therefore, the retention of the vegetation on the western boundary should be required by condition along the lines of that set out in Appendix A of Circular 11/95. The landscaping to the south of the more recent hardstanding at the southern end of the tile works (reference 2006/0333/03) is out of the control of the applicant and does not form part of this application; the land is owned by Tarmac. Planning permission 2006/0333/03 requires this landscaping to be protected and maintained for the duration of the tile works development. If this proposal was granted planning permission this requirement would remain upon Tarmac through the 2006/0333/03 planning permission. Subject to the controls set out the impact of the proposal would be acceptable and meets the terms of policies DM5 and GD5.

Location & Restoration

20. Policy GD3 of the Harborough Local Plan sets out the developments that would be acceptable in the countryside, of which this includes minerals and waste developments. However, the Harborough Local Plan does not recognise the tile works as an existing employment area (Policy BE3) or as an area for future employment development (Policy BE1). Notwithstanding that this site has not been identified as an acceptable location for employment, the countryside can be an acceptable location for this form of minerals related development, i.e. an ancillary operation to mineral extraction and making use of the mineral extracted in the immediate vicinity of the works.
21. It is considered that there is a clear link between this development and the adjacent mineral extraction and is thus acceptable (albeit that such developments should only be temporary). Indeed, the temporary nature of the tile works has been accepted in previous planning permissions such that the land below the tile works is consented for mineral extraction (reference 2004/1605/03) and could be worked as an extension to Shawell Quarry (although it is accepted that since the grant of this planning permission ownership of the tile works has transferred to a separate company to that which extracts the mineral). If the retention of the tile works was not for a temporary period then the issue of mineral sterilisation would be raised. Overall, notwithstanding the lack of conformity with policies BE1 and BE3 it is considered that this proposal accords with policies GD3 and M11 and is acceptable.

2017/1380/03 – continued

Employment and Sustainable Travel

22. The site creates 100 jobs and the economic benefits of the proposal weigh heavily in its favour. The lack of sustainable transport options (walking, cycling and public transport) to and from this site for its employees and visitors weighs heavily against the proposal through the non-conformity to policy IN2. However, on balance it is considered that although not normally an ideal place for industry the link between the tile works and the quarry (through the use of its mineral) and the commensurate benefits that arise from this are sufficient to outweigh these concerns. The temporary nature of the use (with associated site restoration) assists with arriving at this conclusion.

Other Matters

23. It is considered that it is unlikely that the continuation of this development would lead to residential disturbance from either noise or dust either in isolation or cumulatively, neither of these have been raised now or previously as issues from the operation of the site; the site's hours of operation are not restricted and there is no reason for this situation to change. Shawell Parish Meeting have raised the matters of the site's restoration, the timescales for restoration, and HGV movements and these have all been considered above. However, other matters raised by the Parish Meeting relate to the management of the site and are unable to be addressed by this planning application. The applicant has responded to the points raised and comments that they were not invited to the last Parish Meeting but that they usually attended them, and that neither the issue of litter or lights have been passed to them previously. This will be something that will be taken up with the applicant if the concerns persist. Therefore, it is considered that the proposal meets the terms of policy MD11.

Conclusion

24. In conclusion, subject to appropriate conditions, the proposal is considered acceptable with regard to significant adverse impacts upon the local landscape or the highway from this proposal. There have been no objections from statutory consultees. However, planning permission should be temporary and require the subsequent restoration of the site. Consequently, it is considered that the proposal accords with the policies of the development plan and is recommended for approval.

2017/1380/03 – continued

Recommendation

- A. Permit subject to the conditions, as set out in the appendix.
- B. To endorse, as requested by The Town & Country Planning (Development Management Procedure) Order 2015 (as amended):
 - (i) How we have worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible. During the application process the applicant was provided the opportunity to provide additional information on the highway and land ownership to make the application acceptable.

Officer to Contact

Mr. P. C. Larter (Tel: 0116 305 7292)

E-mail planningcontrol@leics.gov.uk

Appendix

Conditions

1. This operation of the roof tile works is limited to the period expiring on 31st December 2030 or on the date one year after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the cessation of tile manufacturing, whichever is the earlier. Within one year of the expiry of that period, all buildings, structures and hardstandings on the site shown edged red on plan 'Title Number LT461832' received 1st August 2019 and the whole of the site shall be restored in accordance with the scheme as approved by condition 8 (eight) of this planning permission.
2. This permission shall relate to the temporary retention of all buildings and structures located on the site shown edged red on plan 'Title Number LT461832' received 1st August 2019 at the date of this permission.
3. The use of the buildings and site shall be restricted to the manufacture of roof tiles and associated operations, activities and uses.

Access and Traffic

4. The number of heavy goods vehicle movements on the Highway generated by the development hereby permitted shall not exceed 240 in any week (i.e. 120 HGVs entering the site and 120 HGVs exiting the site). The operator shall keep a record of all heavy goods vehicles accessing and leaving the site. Back records shall be kept for a minimum of 12 months and access to these records shall be afforded to the Mineral Planning Authority on request.
5. Notwithstanding condition 4 (four) above no heavy goods vehicles shall use the Highway to import sand (with the exception of silica sand) in to the site as shown edged red on plan 'Title Number LT461832' received 1st August 2019
6. All heavy good vehicles leaving the site shall turn right onto Gibbet Lane unless for the purposes of local tile delivery.

Landscape

7. No trees or hedgerow shrubs on the western boundary shall be topped, lopped, cut down, uprooted or destroyed without the written approval of the Mineral Planning Authority. If any retained tree or hedgerow shrub dies, another tree or shrub shall be planted at the same place and that tree and shrub shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Mineral Planning Authority.

2017/1380/03 – continued

Site Restoration

8. No later than 31st December 2030 or within six months after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or six months after the cessation of tile manufacturing, whichever is the earlier a scheme of site clearance and reclamation of the site as shown edged red on plan 'Title Number LT461832' received 1st August 2019 shall be submitted for the approval of the Minerals Planning Authority. Such a scheme shall include details of the demolition and removal of the buildings, structures and hardstandings, provisions for the replacement and/or restoration of soils, the retention and protection of the existing trees and hedgerow on the western boundary, the planting of appropriate vegetation to enable the site to be brought back into a beneficial afteruse (amenity, biodiversity, woodland, agriculture) and for a five year aftercare period, and the timescales for achieving all the details in the scheme. Works shall then be carried out in accordance with the approved scheme.

Reasons

1. The site is in a rural area where planning permission would not normally be granted for the erection of industrial or associated buildings. This permission is granted for a temporary period only and for a specific use having regard to the special circumstances relating to the close proximity to the source of aggregate raw material required in the manufacturing process. The Mineral Planning Authority is of the opinion that when that raw material is exhausted this and no other manufacturing process or storage use should be permitted on this site and the site should be restored in a timely manner to agricultural land or such other form as may be appropriate to the rural character of the locality.
- & 3.
2. For the avoidance of doubt.
4. In the interest of highway safety and the amenities of the area.
5. To ensure that the relationship between the proposed use and existing activities at Shawell Quarry remains and for the amenities of the area.
6. In the interest of the amenities of the area and to ensure that heavy goods vehicles do not make use of inappropriate roads.
7. In the interest of the visual amenity and biodiversity of the area.
8. To provide for the restoration of the site in a satisfactory manner and timescale.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the following applications.

EQUAL OPPORTUNITIES IMPLICATIONS

Unless otherwise stated in the report there are no discernible equal opportunities implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Young People's Service and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970, the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Disability Discrimination Act 1995. You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

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Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPLUSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

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Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

Section 70(2)	:	determination of applications;
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Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
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Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices;
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.

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**DEVELOPMENT CONTROL AND REGULATORY BOARD****10TH OCTOBER 2019****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

APP.NO. & DATE:	2019/0541/04 (2019/CM/0104/LCC) – 2 nd May 2019
PROPOSAL:	Erection of warehouse unit to be used for waste transfer purposes.
LOCATION:	Watling Street, Burbage, LE10 3AR (Hinckley and Bosworth Borough)
APPLICANT:	Mr Hunt.
MAIN ISSUES:	Locational guidance and policy considerations; impact upon the countryside; amenity; ecology; highway safety, and landscape.
RECOMMENDATION:	REFUSE for the following reasons: (i) the development would not be in accordance with development plan policies relating to the location of waste management facilities and there is no overriding need for this type of development to outweigh countryside protection policies; (ii) insufficient information on the effects of the development on noise to assess satisfactorily the impacts. (iii) insufficient information on the effects of the development on biodiversity to assess satisfactorily the impacts. (iv) insufficient information on the effects of the development on highway safety to assess satisfactorily the impacts.

Circulation Under Local Issues Alert Procedure

Mrs A. Wright CC

Officer to Contact

Phil Larter (0116 305 7292)
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

Location of Proposed Development

1. The application site is located on land to the north of the A5 in the hamlet of Smockington, approximately 2.5km from the south-eastern edge of the Hinckley/Burbage conurbation. There is no settlement boundary for Smockington in the Local Plan. The application site is approximately 1,925m² in size within an area designated as countryside. The site is bounded by, and directly accessed off, the A5 on the southern boundary. The site is on the opposite side of the A5 to residential buildings and a barn converted into office units. To the west of the site is a waste operation permitted by the County Council in 2013 (reference 2013/0254/04) and to the east and north are agricultural fields.

Description of Proposal

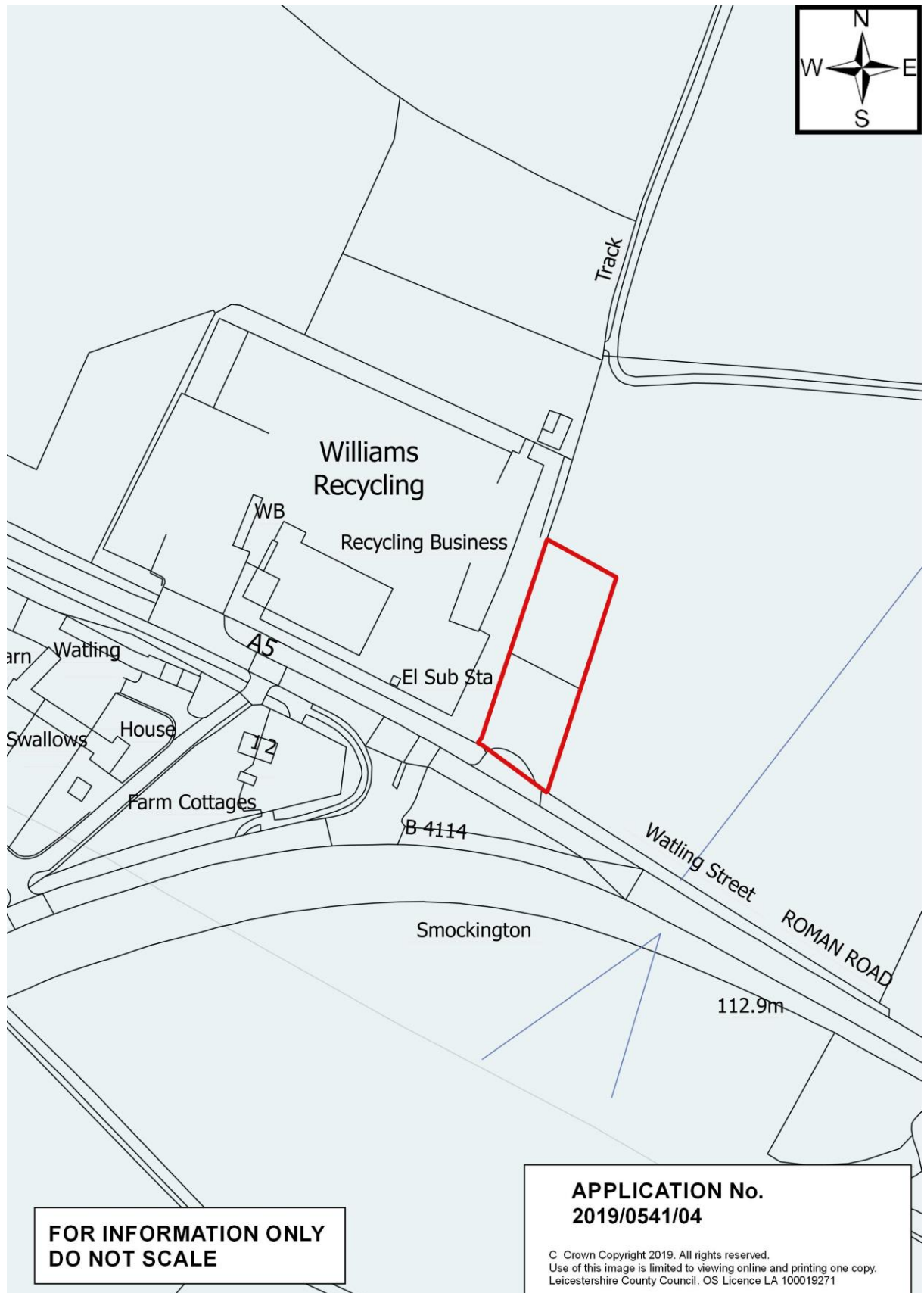
2. The application proposes the erection of a new building in the northern part of the site. The building would measure 23 metres by 20 metres with a maximum roof height of 8.3 metres. The building would have a curved roof and would be finished with silver grey coloured walls, a grey roof and anthracite grey doors and windows. Three car parking spaces would be provided to the immediate south of the proposed building. The site would be surrounded by two-metre-high green palisade fencing. The proposal also contains the retention of the hedgerow on the eastern side and additional landscaping on the northern boundary.
3. The application states that the purpose of the building is for the compaction and onward transfer of waste plastics. No information has been supplied on the site's potential throughput. The site would employ two people and would result in four HGVs entering and exiting the site per week. The proposed hours of operation at the site would be 0800-1700 hours Monday to Friday. There would be no operations on Saturdays, Sundays or Bank Holidays.

Planning Policy

Development Plan Policies

4. The development plan in this instance consists of the Leicestershire Minerals and Waste Local Plan (September 2019), the Hinckley & Bosworth Core Strategy (December 2009) and the Hinckley & Bosworth Site Allocations and Development Management Policies DPD (July 2016). The relevant policies and proposals are set out below.
 - *Policy W1: Waste Management Capacity* of the adopted Leicestershire Minerals and Waste Local Plan (LMWLP).
 - *Policy W4: Non-strategic Waste Facilities* of the LMWLP.
 - *Policy W5: Locating Waste Facilities* of the LMWLP.

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- *Policy DM1: Sustainable Development of the LMWLP.*
- *Policy DM2: Local Environment and Community Protection of the LMWLP.*
- *Policy DM3: Strategic Green Infrastructure of the LMWLP.*
- *Policy DM5: Landscape Impact of the LMWLP.*
- *Policy DM7: Sites of Biodiversity/Geodiversity Interest of the LMWLP.*
- *Policy DM8: Historic Environment of the LMWLP.*
- *Policy DM9: Transportation by Road of the LMWLP.*
- *Policy DM11: Cumulative Impact of the LMWLP.*
- *Policy DM1: Presumption in Favour of Sustainable Development of the Hinckley & Bosworth Site Allocations and Development Management Policies DPD (SADMP).*
- *Policy DM4: Safeguarding the Countryside and Settlement Separation of the SADMP.*
- *Policy DM6: Enhancement of Biodiversity and Geological Interest of the SADMP.*
- *Policy DM7: Preventing Pollution and Flooding of the SADMP.*
- *Policy DM10: Development and Design of the SADMP.*
- *Policy DM17: Highways and Transportation of the SADMP.*
- *Policy DM18: Vehicle Parking Standards of the SADMP.*
- *Policy DM20: Provision of Employment Sites of the SADMP.*

National

5. The revised National Planning Policy Framework (NPPF) was published 19 February 2019 and sets out the Government's planning policies for England. The NPPF does not contain specific policies on waste. At the heart of the NPPF is a presumption in favour of sustainable development, namely the economic, social and environmental roles, and the need to balance economic growth with the protection and enhancement of the environment (including the minimisation of waste and pollution).
6. The National Planning Policy for Waste published in October 2014 and the Waste Management Plan for England published December 2013 set out the Government's ambition to work towards a more sustainable and efficient use of waste and the desire to move the management of waste up the waste hierarchy.

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Consultations

Environment Agency

7. No response received.

Highway Authority

8. The site access is immediately off the A5 trunk road, which is under the jurisdiction of Highways England. The Highway Authority does not believe the proposed development would result in a significant impact on the county highway network.

Highways England

9. Highways England has determined that the proposal is not expected to have a significant impact on the Strategic Road Network (SRN) in terms of traffic. However, the review of the Design & Access and Planning Statement document (DAPS, document ref. 403-WSB-DAPS) submitted in support of the proposal has raised some safety concerns that will need to be addressed by the applicant. A review of Personal Injury Collision (PIC) records highlighted five PICs over the last 5-year period available, two of these involving vehicles waiting to turn right into the adjacent business to the development site. The proposed development is likely to suffer from the same issue of vehicles having to stop on the A5 northbound carriageway to turn right into the site. It is therefore requested that the applicant demonstrates the suitability of visibility available at the access by conducting a survey at the site. The outcomes of the survey should be submitted for review.
10. Although the DAPS document indicates that activities at the site could include the storage of materials outside, no indication of where these would be placed has been provided. Any external stored materials could impact on the expected manoeuvres of HGVs and result in vehicles not being able to make manoeuvres internally to the site, leading to potential reversing movements from the A5 into the site and/or manoeuvring within the hardstanding outside the boundary fence. Either situation could impact on the free flow of traffic along the A5 and increase the risk of collisions. In order to avoid this, specific areas to be used for outdoor storage should be identified. Also, to determine whether outdoor storage of materials would result in unsafe movements being made while accessing and egressing the site, updated swept path analysis drawing should be submitted for review.
11. Further to this, there are concerns that the hardstanding area outside the boundary fence could be used for parking or ad-hoc storage of material. This could impact on movements to/from the site and result in site operations encroaching onto the SRN and should therefore be avoided. Measures to prevent this should be identified.

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12. Although the developer indicates that this business and the adjacent business will be operating independently, there is the risk that materials etc. will be transported between the sites, as they would be undertaking what seems to be very similar functions. It is, therefore, recommended that the applicant confirms if this is the case, identifying any expected movements of vehicles and/or materials between the two sites, and demonstrate how this is proposed to be conducted without impacting on the safe operation of the SRN.
13. The applicant should confirm whether any changes to the existing T-junction access off the A5 is proposed as part of the application. Given the location of the site adjacent to the SRN, details of the boundary treatment, drainage and lighting strategies should be submitted in support of the proposal, although these matters can be resolved through condition.

Hinckley and Bosworth Borough Council - Planning

14. The site is within the countryside outside of any settlement boundary albeit located adjacent to an existing waste management facility (Williams Recycling Ltd) of which it was once part. It is therefore identified as previously developed land (PDL). Despite its recent long-term use as an employment site, it does not benefit from such a designation within the Employment Land and Premises Review 2013. The use of PDL for employment uses is supported by DM20 of the SADMP and the NPPF, therefore the principle for development of employment use on the proposed site is accepted subject to the development satisfying all other material considerations.
15. Although it is acknowledged that the site was originally used as part of the recycling centre adjacent and has had a long-standing commercial use, the site is not a designated employment site and therefore it will need to meet the criteria of Policy DM4 in particular criteria b) or c). Should it be considered either of these criteria have been met, the scheme should also then satisfy points i) – v). The design of the development would need to be in keeping with the rural landscape surrounding the site and its key sensitivities and values. It is noted from the plans provided that the building is set back in to the site, limiting its view, the additional landscaping denoted on the plans is also welcomed by the Council. With regards to the above, it is noted from the application form that it is anticipated the proposed development would only create 2 full time jobs.

Hinckley and Bosworth Borough Council – Environmental Health Officer

16. A noise impact assessment should be carried out incorporating all proposed operations and items of plant and equipment on site. The EHO recommends, if planning permission is granted, to attach conditions relating to the construction of the development, the lighting of the site, the investigation and remediation of the land for contamination, litter and hours of operation.

Lead Local Flood Authority

17. The proposal falls outside of the LLFA's remit for a bespoke response, so they refer to their standing advice.

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Leicestershire County Council – Archaeological Advice

18. No objection subject to conditions for an appropriate programme of archaeological mitigation.

Leicestershire County Council – Ecological Advice

19. Aerial photographs suggest that the site is currently overgrown with scrub, which provides a potential habitat for badgers. There is therefore a strong possibility that badgers may be present in or adjacent to the application site and may be impacted by the development. It is recommended that a badger survey of the site is carried out and submitted before the planning application can be determined. It also appears that there may be existing buildings on site to be demolished. It is recommended that the buildings are assessed against the criteria for 'when a bat survey is needed' in the Bat Protocol. If the buildings fall within the requirements for a survey (based on their structure) a bat survey of the property is carried out and submitted before the planning application can be determined. This should involve an external and internal inspection of the building by an appropriately licensed bat worker. Depending on the results of this, an emergence survey may also be required. Emergence surveys can only be carried out between May and mid-September.
20. The development will also involve the removal of a large area of scrub. It is recommended that landscaping is designed to replace or retain some scrub as compensation for that lost; this could be achieved through the retention and widening of boundary hedgerow features, or the creation/retention of an area of scrub at the rear of the site.

Leicestershire County Council – Landscape Advice

21. The proposal would have limited adverse impact on the landscape character of the area. The hedgerows and hedgerow trees which border the proposed development provide a valuable screen, have amenity value, provide valuable wildlife habitat and should be retained wherever possible, measures should be put in place to safeguard and replace (if necessary) any trees or hedgerow. A detailed landscape scheme should be provided that includes details of the proposed ground preparation, plant and seeding specification (if required), plant protection and maintenance and management measures.

Burbage Parish Council

22. Object to the planning application due to serious concerns over the traffic movements so near to the road junction opposite the site.

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Warwickshire County Council – Highway Authority

23. No objection.

Wolvey Parish Council

24. Object on the grounds of highway safety. The parish council considers the erection of an industrial warehouse will create additional traffic in and around the junction arising from vehicles visiting and leaving the proposed premises and will increase the pressure on this junction which will exacerbate the problem of what it considers to be an already busy and dangerous junction.

Wigston Parva Parish Meeting

25. No response received.

Publicity

26. The proposal has been advertised by neighbour letters dated 15th May 2019, a site notice posted on 24th May 2019, and a notice in a local newspaper published on 22nd May 2019. No representations have been received within the prescribed period.

Assessment of Proposal

27. The relevant consideration in the determination of this proposal is the acceptability or not of the location for this new development and the effects of it on amenity, ecology, the highway, and landscape.

Policy and Location

28. In general terms the proposed development conforms with national and local objectives (policy W1) to help reduce waste disposal and move the management of waste up the hierarchy, although as a transfer station with no sorting taking place on site there is no direct contribution to these matters but transfer stations are an integral part of the waste management process.
29. One of the principal aims of the Minerals and Waste Local Plan is to direct new waste developments to specific areas of the County and to suitable priority locations. Given the size of the site and the proposed throughput of the operations it is considered that the site does not meet the criteria of a 'strategic' site and, therefore, policy W4 is the starting point for assessing its suitability in terms of location and policy W5 for the type of land upon which the proposal would be located.

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30. Policy W4 for non-strategic sites is the starting point for assessing its suitability in terms of location. In terms of the locational principles for non-strategic sites, policy W4 seeks to locate sites (in part) in or close to the main urban areas of Coalville, Loughborough/Shepshed, Hinckley/Burbage, Market Harborough or Melton Mowbray or within major growth areas. The site would be located approximately 2.5 kilometres from the south-eastern edge of the Hinckley/Burbage conurbation and therefore does not meet criterion (i) of policy W4.
31. Policy W4 also allows for sites outside of the above areas for which a countryside location is necessary. The only bullet point this proposal could meet is bullet point (d), where the result would be transport, operational and environmental benefits and there is an overriding need for the development that cannot be met in the urban areas. The application expressly states that “the operation will work in isolation to the Williams Recycling Centre” (the Williams Recycling Centre being the waste site to the immediate west of this proposal), therefore, there can be no benefits from co-location. No reasons have been demonstrated why the development cannot be accommodated in the urban areas and there is no overriding need for the development in this rural location. On the latter point, the Minerals and Waste Local Plan sets out that up to 2031 there are sufficient operational waste operations to handle the waste streams that this proposal would manage. Therefore, it is considered that the site does not accord with the requirements of policy W4.
32. Policy W5 is only utilised if the terms of policies W3 and W4 (where relevant) have been met, which it is considered they have not. Notwithstanding this in respect of policy W5, the application sets out the uses of the land that have taken place on the land - a garage and filling station until 1985 and then used by Hunt Brothers as it's registered office and postal address with a HGVs operator's licence until March 2018. It appears that there is no lawful use for this land for any employment provision and the land does not benefit by being recognised by Hinckley & Bosworth Borough Council (HBBC) as part of their employment provision. However, HBBC describes the land as once being part of the adjacent waste operations. Further investigation on this point shows that when the CLUED for waste operations (reference 2010/0707/04) was submitted, and subsequently granted by Leicestershire County Council for land to the west this site was excluded from the application and described as a disused petrol filling station. Therefore, the land is not considered to have lawfully formed part of the adjacent waste operations (or even to have been used to an extent where a CLUED could have been obtained for this use).
33. The NPPF defines what previously developed land is and makes clear that this excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. The filling station buildings have all been removed from the site and much of the site is now scrub. Some containers appear to be on the site but these have been partially obscured by vegetation. Therefore, it is considered that the land should be considered greenfield. This does not mean that planning permission cannot be granted for development on a greenfield site, but the preference should always be given to developing previously developed sites.

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34. The NPPF requires planning to contribute to the achievement of sustainable development. The Minerals and Waste Local Plan was drawn up with the principle of locating waste sites in a sustainable pattern of development, i.e. near to arisings. The application refers to the adjacent waste site setting a precedent (albeit to do with new buildings in this countryside location). The application also sets out that the land to which this proposal relates forms part of a much larger development that will impact on the countryside – the land is contained within the Hinckley & Bosworth Borough Council's Strategic Housing and Employment Land Availability Assessment (SHELAA) 2018 as a potential area for development (site reference LPR27). However, this document only identifies potential land for development. It does not mean that planning permission would or should be granted for development. The granting of planning permission at the adjacent waste site was done as an exception to the policy acknowledging the established and unenforceable use of the site (CLUED reference 2010/0707/04) and the SHELAA concludes the potential large development to be non-deliverable.
35. This proposal does not meet the locational principles of the Waste Core Strategy and it is considered an unsustainable rural location unsuitable for further waste expansion (in terms of a new site). Policies DM4 and DM20 of the Hinckley and Bosworth Site Allocations and DM Policies document seek to protect the countryside from unsustainable development and to allow the development of greenfield sites only when it has been demonstrated that there are no suitable alternative sites in locations other than greenfield. As set out above it is considered that this location is not sustainable but could be acceptable against bullet point c) of policy DM4 but with only two jobs being created it cannot meet the criterion of significantly contributing to economic growth. As to policy DM20, the site (as a whole) does not meet any of the criteria which would allow a new use on the land. Even if part of the site were to be classed as previously developed land, this would not be of sufficient scale to meet this policy (and even if it did this would not override the failure to meet key waste spatial policies). Therefore, the proposal fails to meet the terms of policies DM1 (x2), DM4 and DM20.

Amenity

36. The nearest residential property to the site is that to the south west, some 60 metres away on the opposite side of the A5. Given the design of the development, the types of waste being handled, and the location of the A5 between the development and the nearest residential properties it is considered unlikely that the proposal would generate unacceptable impacts from noise, dust, odour or illumination. However, this is not proven and the actual noise impacts of the proposal both from activities outside and within the proposed building have not been assessed as part of this application and have not been provided by the applicant despite a request to do so. The noise impacts of the proposal are fundamental to determining the proposal and, therefore, without this information the scheme cannot be determined favourably. Similarly, no information has been provided in relation to proposed lighting for the site but in this case, it is considered that the impacts from lights could be managed through condition if the application were to be granted. In terms of dust and odour the type of waste operations and materials proposed to be managed would be unlikely to generate such emissions that further assessment is required.

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37. The Environmental Health Officer has raised the matter of contaminated land because of the former use of the site as a garage and filling station. The application does not address the issue of contaminated land and thus, it is not known if any remediation of the land has taken place prior to this application or whether those works are to an acceptable standard. If planning permission were to be granted, conditions should be attached requiring a contaminated land scheme to be submitted and then, if required, remediation to take place. Without the noise assessment, the impact on amenity would be unacceptable and would not accord with policies DM2 and DM10 (of the SADMP).

Ecology

38. The application does not contain any assessment of the ecological value of the land to which this proposal relates. Leicestershire County Council's ecologist states that a badger survey and, potentially a bat survey are required. These are both reasonable requests given the current status of the land, although it is acknowledged that no buildings are present on site but there are containers that have been present for quite some time and are not in pristine condition. No survey(s) has been forthcoming despite being requested and thus the effect of the proposal on biodiversity is unknown and thus unacceptable. The relevant guidance states that without these surveys the application cannot be granted planning permission. Therefore, the proposal is unacceptable and does not meet the terms of policies DM3, DM7 (of the LMWLP) and DM6.

Highway

39. Access to the proposed unit would be direct from the A5 trunk road. This forms part of England's Strategic Road Network (SRN) and is, therefore, under the jurisdiction of Highways England. Although the proposed use would only generate four HGVs a week, Highways England have raised a number of highway safety concerns with the proposal that need to be addressed before planning permission could be granted. These additional details have not been provided by the applicant (although the opportunity to do so has been offered to the applicant) and thus it is not possible to conclude that the impacts of the proposal on the A5 is acceptable. On the basis of this, it is not possible to conclude that the development accords with policies DM9 and DM17. It should be noted that car parking provision appears acceptable and does not conflict with policy DM18.

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Landscape

40. The proposed development would be located immediately adjacent to an established medium-sized waste operation. The building would be of a similar design and colour to the main building on the adjacent operational waste site but of a smaller scale. The existing and proposed landscaping would assist in lessening the visual impact of the proposal and thus the impact of the development on the landscape would be acceptable. However, as referred to above, there is no demonstrated need for this development in the countryside and the landscaping proposed does not override the lack of compliance with the development plan in other respects. If planning permission was granted, the provision of landscaping details and the replacement of any hedgerow/trees lost as a result of the construction of the development should be required by condition. This landscaping, subject to the use of native species, would also assist in the development providing a net gain to biodiversity. Subject to this the proposal is considered to have an acceptable impact on the landscape and accords with policies DM2 and DM5.

Other Matters

41. The site is located within flood zone 1, land with the lowest probability of flooding, and subject to it being built as per the LLFA's standing advice there is no concern that this will exacerbate flooding and thus the terms of policies DM2 and DM7 of Hinckley and Bosworth's SADMP are met. Advice provided on archaeological matters is that some archaeological investigation would be required but that this could be dealt with by condition and thus subject to such a condition the development is acceptable against policy DM8. Policy DM11 seeks to ensure that the impacts of a development through different impacts from the same proposal or in combination with existing developments is considered. Immediately adjacent to the site is an existing waste facility. However, in the absence of a noise assessment and highway details, it is not possible to assess these potential cumulative impacts and therefore the proposal does not meet the terms of policy DM11.

Conclusion

42. The proposed development would be located in an area designated as countryside, where development is controlled to a greater extent than on previously developed land. The location of the site is outside the preferred areas for locating waste management facilities and is considered to be unacceptable for the form of development proposed. It has not been demonstrated that there is an overriding need for the development that would overcome its location and no evidence has been supplied as to why it cannot be accommodated in the County's urban areas. Therefore, it is considered that the planning application is contrary to policies W4 and DM1 of the LMWLP, and policies DM4 and DM20 of the SADMP.
43. In the absence of any demonstrable assessment of the impacts of the proposal on the A5, biodiversity and noise. the application cannot be found acceptable on these matters due to conflict with policies DM2, DM3, DM7, DM9, and DM11 of the LMWLP, and policies DM6, DM10, and DM17 of the SADMP.

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44. The impacts of the proposal on odour and dust (although not assessed are unlikely to arise from the type of operations and the waste types proposed), illumination, contaminated land, landscape and flooding are likely to be acceptable, or at least the impacts are likely to be able to be mitigated, subject to appropriate conditions.
45. Overall, the development is not considered to be in accordance with the development plan; there are no overriding reasons for the development in the proposed location and there are no material considerations that would outweigh the fundamental policy concerns listed. Consequently, the application should be refused for these reasons.

Recommendation

1. REFUSE for the reasons as set out in the appendix.
2. To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2015 (as amended), a summary of

How Leicestershire County Council has worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible. The applicant has been afforded the opportunity to provide the additional information required to overcome the impacts upon the A5, badgers and bats, and noise but has declined to do so.

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REFUSE, for the following reasons:

1. The proposed development is outside of the preferred locations for non-strategic waste facilities, as set out in policy W4 of the Leicestershire Minerals and Waste Local Plan. On the basis of the evidence provided with the submitted application, it has not been demonstrated that: it is necessary to locate the facility in this more dispersed location; there is an overriding need for the development; and this need cannot be met in the preferred locations of policy W4. It is considered that this proposal is an unsustainable development in the countryside for which the benefits are not sufficient to outweigh this unacceptability. Therefore, the proposal would be contrary to policies W4 and DM1 of the LMWLP, and policies DM4 and DM20 of the SADMP.
2. Lack of information in relation to the noise impacts of the development to demonstrate that the development would not have an unacceptable impact upon residential amenity and would be contrary to policies DM2 and DM11 of the LMWLP, and policy DM10 of the SADMP.
3. Lack of an appropriate ecological survey to demonstrate that the development would not harm biodiversity and would be contrary to policies DM3 and DM7 of the LMWLP, and policy DM6 of the SADMP.
4. Lack of evidence to demonstrate that the development would not have an unacceptable impact upon highway safety and would be contrary to policies DM9 and DM11 of the LMWLP, and policy DM17 of the SADMP.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the following applications.

EQUAL OPPORTUNITIES IMPLICATIONS

Unless otherwise stated in the report there are no discernible equal opportunities implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Young People's Service and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970, the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Disability Discrimination Act 1995. You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPLUSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

Section 70(2)	:	determination of applications;
Section 77(4)	:	called-in applications (applying s. 70);
Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
Section 92(6)	:	power to vary applicable period for outline planning permission;
Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices;
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.

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