



**Meeting:** Development Control and Regulatory Board

**Date/Time:** Thursday, 22 June 2023 at 2.00 pm

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

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

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

### Membership

Mr. R. G. Allen CC    Mr. P. King CC  
Mr. N. D. Bannister CC    Mr. B. Lovegrove CC  
Mr. M. H. Charlesworth CC    Mr. K. Merrie MBE CC  
Mr. D. A. Gamble CC    Mr. L. Phillimore CC  
Mr. D. J. Grimley CC    Mr. C. A. Smith CC  
Mr. D. Harrison CC

**Please note:** this meeting will be filmed for live or subsequent broadcast via You Tube  
[https://www.youtube.com/playlist?list=PLrIN4\\_PKzPXjar7IOtLtNZvlwZ4xT\\_8yU](https://www.youtube.com/playlist?list=PLrIN4_PKzPXjar7IOtLtNZvlwZ4xT_8yU)  
– Notices will be on display at the meeting explaining the arrangements.

### AGENDA

#### Item

1. Appointment of Chairman.

*To note that Mr. L. Phillimore CC was nominated as Chairman-elect to the Development Control and Regulatory Board at the Annual Meeting of the County Council held on 17 May 2023.*

2. Election of Deputy Chairman.
3. Minutes of the meeting held on 11 May 2023. (Pages 3 - 4)
4. Question Time.
5. Questions asked by Members under Standing Order 7(3) and 7(5).



6. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.
7. Declarations of interest in respect of items on the agenda.
8. Presentation of petitions under Standing Order 35.

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

9. 2022/2260/02 (2022/VOCM/0161/LCC): Variation of planning conditions no.8 and no. 10 of planning permission reference 2001/2001/2 to increase imports of gypsum and the associated numbers of HGV movements and a reduction in the permitted hours of importation - Barrow Works, Paudy Lane, Seagrave. (Pages 5 - 40)
10. 2023/10047/04 (2023/CM/0037/LCC): Retention of existing hardstanding, including existing and proposed landscaping - Bosworth Marina, Carlton Road, Market Bosworth. (Pages 41 - 50)

Reports of the Director of Corporate Resources.

11. Leicestershire County Council Country Parks Byelaws. (Pages 51 - 64)
12. Any other items which the Chairman has decided to take as urgent.
13. Chairman's announcements.



Minutes of a meeting of the Development Control and Regulatory Board held at County Hall, Glenfield on Thursday, 11 May 2023.

PRESENT

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

Mr. N. D. Bannister CC  
Mr. T. Barkley CC  
Mr. M. H. Charlesworth CC  
Mr. D. A. Gamble CC  
Mr. D. J. Grimley CC

Mr. D. Harrison CC  
Mr. K. Merrie MBE CC  
Mr. L. Phillimore CC  
Mr. C. A. Smith CC

71. Minutes of the previous meeting.

The minutes of the meeting held on 6 April 2023 were taken as read, confirmed and signed.

72. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 34.

73. Questions asked by Members.

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

74. Urgent items.

There were no urgent items for consideration.

75. 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.

No declarations were made.

76. Presentation of petitions.

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

77. Winstay Aggregates Limited: Retrospective change of use of agricultural land to soil and aggregates waste transfer centre (Sui Generis) and includes associated works and engineering options - Bracknell Farm, Leicester Road, Thurlaston.

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

In accordance with the procedures for making representations to the Board, Mr. B. Rayner (Holland Lloyd) and Mr. M. Harrison (Golden Site) spoke on behalf of the applicant, and Mrs. Maggie Wright CC and Mr. R. Allen CC spoke as the local members.

Mrs. Wright CC acknowledged that the location of the application site did not comply with Policy W4 and Policy W5 of the Leicestershire Minerals and Waste Local Plan but she suggested that the proposed site was a good location which would result in minimal harm to the local area. Mrs Wright noted that the site was close to the Barwell and Earl Shilton Sustainable Urban Extensions (SUEs). Mrs. Wright CC also noted that if planning permission was granted formal contracts with companies could be agreed for use of the site.

Mr. R. Allen CC stated that he supported the principle of diversifying the use of agricultural land for soil and aggregates however he questioned the location of this particular site in particular the potential visual and noise impacts on the surrounding area. In response to comments about the nearby SUEs Mr Allen pointed out that planning applications should be considered on their own merits and not in conjunction with other planned developments. Mr. Allen CC also raised concerns about the conduct of the applicant which meant they had been required to submit the application retrospectively. Mr. Allen CC stated that he supported the officer's recommendation to refuse the application and issue an enforcement notice.

Board members emphasised the importance of planning applications complying with policy and waste sites being located within the relevant boundaries for those types of sites.

RESOLVED:

- (a) That the application be refused for the reasons set out in the appendix to the report.
- (b) That an enforcement notice (and/or any other similar notices as may be considered appropriate by officers) to rectify breach of planning control be issued.

78. Chairman's announcements.

The Chairman advised that the next meeting of the Board would take place on Thursday 22 June 2023 at 2.00pm.

**DEVELOPMENT CONTROL AND REGULATORY BOARD****22 JUNE 2023****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

<b>APP.NO. &amp; DATE:</b>	2022/2260/02 (2022/VOCM/0161/LCC) – Valid Date: 08/12/2022.
<b>PROPOSAL:</b>	Variation of planning conditions no.8 and no. 10 of planning permission reference 2001/2001/2 to increase imports of gypsum and the associated numbers of HGV movements and a reduction in the permitted hours of importation.
<b>LOCATION:</b>	Barrow Works, Paudy Lane, Seagrave, Leicestershire, LE12 8GB
<b>APPLICANT:</b>	British Gypsum
<b>MAIN ISSUES:</b>	Impacts on the highway including rights of way, local amenity, health and wellbeing, ecology, the local environment, climate change, sustainability, and cumulative impact.
<b>RECOMMENDATION:</b>	Permit subject to the conditions included in Appendix A and the prior completion of a legal agreement.

**Circulation Under Local Issues Alert Procedure**

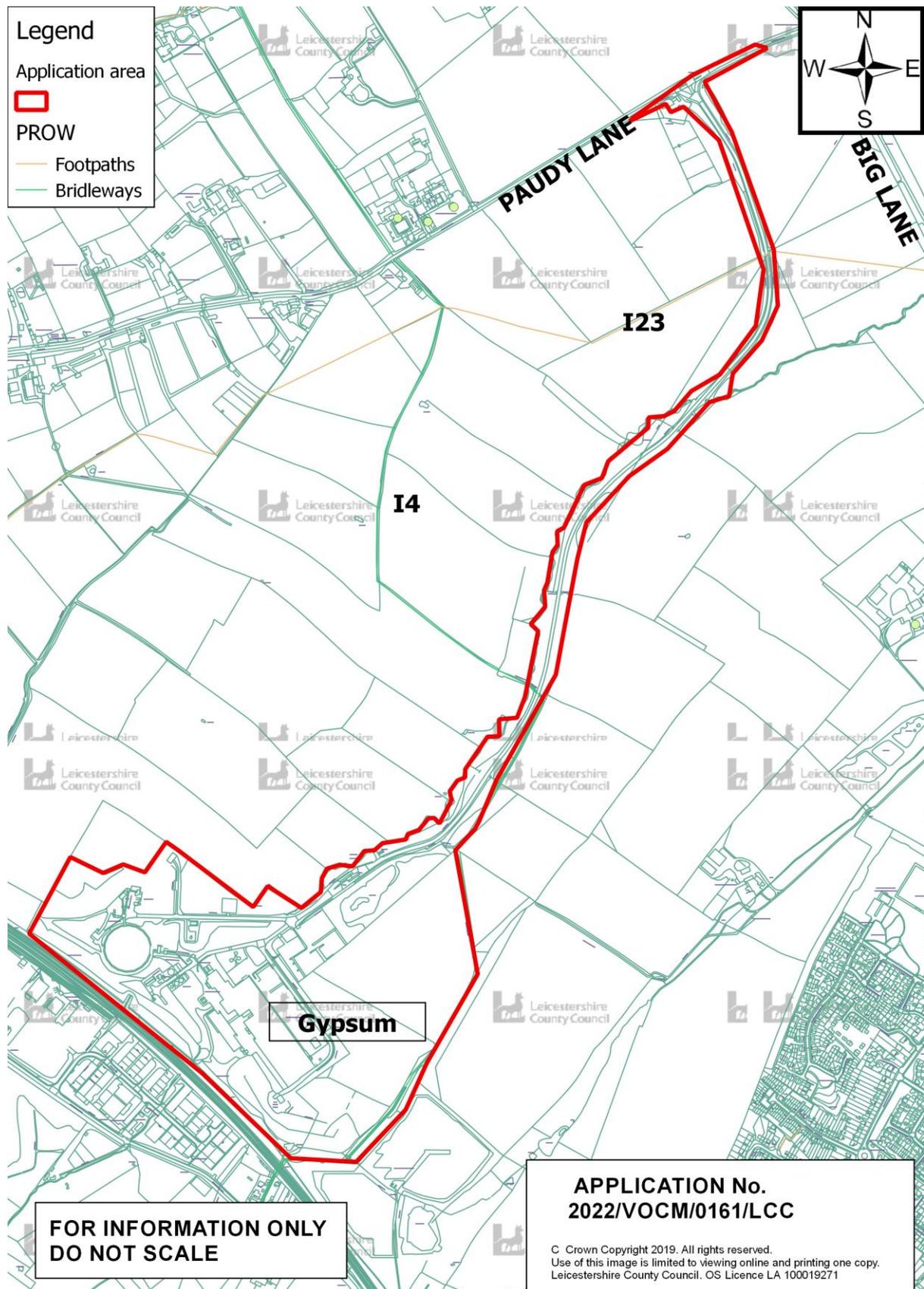
Mrs. H. Fryer CC (Quorn & Barrow), and Mr. R. J. Shepherd CC (Sileby & The Wolds).

**Officer to Contact**

Amelia Mistry  
Email: [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

**PART B – MAIN REPORT****Location and Setting of Site**

1. The Barrow Works is located approximately 600m to the south-east of Barrow-Upon-Soar and 800m north-west of Sileby. The site is bounded on its south-western side by the main Sheffield to London railway line.
2. The site is accessed via a private road located off Paudy Lane, which runs between Barrow upon Soar and the Six Hills junction of the A46. The access road to the site is 2.3km in length. Two public rights of way cross the site access road, Bridleway I4 and Footpath I23. Signage and traffic calming measures are in place where these rights of way cross the access road.
3. The nearest residential properties to the planning application area are on the southern side of the main railway line and those which are situated in close proximity to the access road. The nearest property is located approximately 8 metres west from the site's access. Additionally, several businesses and residential properties are located along Paudy Lane. To the west, the nearest properties in Barrow upon Soar are 600m away. To the south-east the nearest properties in Sileby are 850m away. Additionally, there are numerous residential properties and industrial businesses which lie directly south of the railway line which bounds the southern edge of the site, along Sileby Road. The nearest residential properties in this area lie approximately 170 metres south-east of the site.



**Planning History**

4. Planning permission was granted by the Secretary of State for the extraction of gypsum by underground mining at Barrow upon Soar in August 1980. The County Council subsequently granted planning permission for a new bagged plaster and plasterboard factory, and the construction of a new access, in September 1987 (permission reference 87/1467/2).
5. A legal agreement is in place that controls, amongst other things, lorry routeing. This requires all vehicles over 3 tonnes in weight when leaving the access road to do so by turning right upon reaching the Paudy Lane junction and proceed directly to the junction of the B676 Six Hills with the A46. All vehicles are only permitted to use Class A and B roads, except in cases where no such road link exists or delivery to premises having access only via a road that is not A/B Class.
6. The importation of high-grade gypsum to blend with mineral excavated from lower grade areas of the mine was initially approved in June 1992, which was subsequently extended by numerous further permissions. In March 1995, permission was granted for the importation of up to 90,000 tonnes per annum (tpa) of high-grade gypsum by road for a temporary period up to 31st December 1996. In October 1996, planning permission was granted for the importation of up to 120,000tpa by road for a further temporary period up to 31st December 2001. In October 2001, a permanent permission was granted for the importation of up to 90,000tpa (permission reference 2001/2001/2). This permission varied planning permission 87/1467/2.
7. In 2005 a temporary planning permission was sought for the additional importation of up to 170,000 tonnes of high-grade gypsum (permission reference 2005/2313/2) owing to operational issues with extracting sufficient gypsum to meet demand for plaster. At the time, it was not considered that there were any substantive planning or highway reasons for refusing the increased importation of a limited amount of gypsum to the Barrow works for a temporary period, given the proposed routes and the level of lorry movement that would be involved. Approval was given for the importation of additional gypsum for a 6-month period. Following the six months of increased numbers of lorry movements the planning permission ceased and imports continued as approved under the permanent permission 2001/2001/2 which allows for the importation of up to 90,000tpa of high-grade gypsum.
8. In 2013 planning permission was granted for the erection of a building for load securing operations which enable hauliers and drivers to secure their load onto despatch vehicles (permission reference 2013/0019/02).
9. In 2016, planning permission was granted for the use of land for stockpiling gypsum (permission reference 2016/0644/02).
10. Most relevant to this planning application, in 2018 planning permission was sought to vary Condition 10 of planning permission 87/1467/2 which controls the hours of movement of heavy goods vehicles (HGVs) leaving and entering the works (planning application reference 2018/2588/02). Additionally in 2018, planning

permission was sought to vary conditions 8 and 10 of planning permission 2001/2001/2 to increase imports of high-grade gypsum and the associated HGV movements and to reduce the permitted hours of importation of such gypsum (planning application reference 2018/2589/02). Both applications were refused at a Board meeting on the 11th of June 2020.

11. In 2022 planning permission was sought for the erection of a customer centre (planning application reference 2022/CM/0164/LCC). This application has since been withdrawn.
12. In 2023, planning permission was granted for a replacement welfare block to provide facilities for those staff who assist with securing pallets of plaster products onto lorries for dispatch (permission reference 2022/CM/0117/LCC).

### **Background Information on the Existing Site**

13. Barrow Works manufactures a range of bagged plasters for the construction industry. To meet an ongoing growth in demand for products, an expansion of the plant was completed in September 2002, which increased capacity by around 30% to a production capability of 900,000 tonnes per annum. The product range produced by the site ranges from a series of undercoat to topcoat plasters.
14. Raw gypsum material for the production of plaster at the site comes from two main sources:
  - The on-site mine, which has been in operation since the plant first opened in 1992; and
  - High-grade gypsum (currently from Bantycok Quarry at Newark, which is part of the Saint-Gobain Formula business group).
15. The plant runs 24 hours per day, 7 days per week, with the only planned break in production being over the Christmas period. The works currently produces approximately 800,000 tonnes of plaster a year.

### **Description of Proposed Development**

16. British Gypsum seeks planning permission for the variation of planning conditions 8 and 10 of planning permission reference 2001/2001/2 to allow for an increase in imports of gypsum and the associated numbers of HGV movements and a reduction in the permitted hours of importation.
17. As noted above, an application was submitted by the applicant in December 2018 for a materially similar development at the same site (planning application reference 2018/2589/02). At a committee meeting on the 11th of June 2020, the Council resolved to refuse the planning application. Following the committee decision, the applicant has revised the proposal and the application has been resubmitted.

18. This planning application seeks to amend conditions 8 and 10 attached to permission no. 2001/2001/2, which read as follows:
- Condition 8: “The number of lorry movements associated with the importation of gypsum to the Barrow Works shall not exceed 24 for any working day. Records of lorry movements shall be maintained on a monthly basis, and shall be made available to the Director of Planning and Transportation at any time upon request. All records shall be kept for at least 12 months”;
  - Condition 10: “No lorries carrying gypsum shall enter the site except between the hours of 0600 and 2200 on weekdays (Mondays to Fridays) and 0600 and 1400 on Saturdays. No lorries carrying gypsum shall operate on any Sunday or any Public or Bank Holiday”.
19. It is proposed to increase the number of HGVs associated with the importation of high-grade gypsum and reduce the hours of importation that this can take place.
20. Condition 8 essentially allows, or limits the site, to import up to approximately 90,000 tonnes of high-grade gypsum per annum through the restriction of HGV movements. It is proposed to increase the number of high-grade import vehicle movements to a maximum of 50 HGV movements (i.e., 25 deliveries/day) between Monday – Friday and a maximum of 26 HGV movements (i.e., 13 deliveries) on Saturdays. This would allow approximately 180,000 tonnes of high-grade gypsum to be imported per annum.
21. Additionally, it is proposed to amend the hours for lorries carrying gypsum to enter the site as limited by Condition 10. It is proposed to reduce the permitted hours when high-grade gypsum can be imported by giving up the following hours:
- 0600 - 0700 Monday to Friday;
  - 1900 - 2200 Monday to Friday;
  - 0600 – 0800 Saturday; and
  - 1300 – 1400 Saturday
22. It is not proposed to allow imports on Sundays or Bank Holidays. Overall, it is proposed to relinquish permitted hours for HGV deliveries of high-grade gypsum.
23. For clarity, the existing and proposed vehicle movements for the importation of gypsum are illustrated below in Tables 1 and 2 respectively. Overall, there would be an additional 26 movements per weekday and an additional 14 movements on Saturdays. Movements on Saturdays would be restricted to a maximum number of six movements for each hour that movements are permitted.

Time Period	Days of the week						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
00:00-01:00							
01:00-02:00							
02:00-03:00							
03:00-04:00							
04:00-05:00							
05:00-06:00							
06:00-07:00							
07:00-08:00							
08:00-09:00							
09:00-10:00							
10:00-11:00							
11:00-12:00							
12:00-13:00							
13:00-14:00							
14:00-15:00							
15:00-16:00							
16:00-17:00							
17:00-18:00							
18:00-19:00							
19:00-20:00							
20:00-21:00							
21:00-22:00							
22:00-23:00							
23:00-00:00							
<b>Maximum per day</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>24</b>	<b>12</b>	<b>0</b>

**Table 1.** Existing vehicle movement restrictions for gypsum importations. Key: Green = permitted hours and red = curfew hours.

Time Period	Days of the week						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
00:00-01:00							
01:00-02:00							
02:00-03:00							
03:00-04:00							
04:00-05:00							
05:00-06:00							
06:00-07:00							
07:00-08:00							
08:00-09:00						(6)	
09:00-10:00						(6)	
10:00-11:00						(6)	
11:00-12:00						(6)	
12:00-13:00						(6)	
13:00-14:00							
14:00-15:00							
15:00-16:00							
16:00-17:00							
17:00-18:00							
18:00-19:00							
19:00-20:00							
20:00-21:00							
21:00-22:00							
22:00-23:00							
23:00-00:00							
<b>Maximum per day</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>26</b>	<b>0</b>

**Table 2.** Proposed vehicle movement restrictions for gypsum importations. Key: Green = permitted hours and red = curfew hours. The values proposed for Saturdays are a proposed maximum number of movements for each time period.

### **Background of the Revised Application**

24. The planning application reference 2018/2589/02 had an identical description of development. The application considered for determination here effectively constitutes a resubmission of that application with minor differences.
25. The minor differences relate largely to the supporting information which is provided rather than substantial differences in the development which is proposed. The proposed increase in daily HGV numbers related to the importation of gypsum remains identical. The proposed variation to the permitted hours of importation also remains identical.
26. The supporting information including the planning statement, noise and transport assessments have been updated since the submission of the first application and further information in relation to these documents has been provided by the

applicant following comments which were received during the consultation period. This is presented within the report set out below.

27. A revised assessment of the potential of cumulative effects which may result from the combined impacts of multiple developments as well as multiple in-scheme impacts is presented in the assessment section of this report, below.
28. The reasons for refusal of the materially similar planning application reference 2018/2589/02, for which this application is a re-submission are as follows:
  1. Failure to accord with Policy DM1, with regards to the environmental and social impact upon residential properties in the locality. The proposed mitigation of the acoustic fencing is not considered sufficient to mitigate against the noise, amenity and health impacts upon the residents of the nearest residential property.
  2. Failure to accord with Policy DM11, the cumulative impact upon the amenity of residential properties in the locality.
  3. With respect to the proposed increase in vehicle movements, the application fails to accord with Paragraph 8 of the NPPF, with regards to bullet points b) and c) in relation to the social and environmental objectives, respectively. With regards to the social objective the application would fail to support communities' health, social and cultural well-being. With regards to the environmental objective the application fails to demonstrate how the proposals would mitigate and adapt to climate change, including moving to a low carbon economy.

### **Need for the Proposed Development**

29. The applicant has set out a case for need for the proposed development within the submitted supporting planning statement. The importation of high-grade gypsum from Newark to the site has been taking place since the mine commenced operating in 1992. This material is used to raise the average grade of the rock which is mined at the site and allows for the reserves to be fully maximised. A suitable product is achieved by blending lower grade material with the imported, higher-grade material. At present the site imports high-grade gypsum (which is greater than 90% gypsum content) to Barrow Mine, to blend with the lower grade mined gypsum (which has a gypsum content of ~80%). The current import operations are limited to only allowing high quality gypsum to be imported for the required purposes outlined above. These operations are controlled by planning condition 7 of permission reference 2001/2001/2 which states, "The importation of gypsum shall be limited only to desulphogypsum or other high quality gypsum *to be used for the purpose of enhancing the quality of gypsum rock extracted from the Barrow Mine*". This effectively limits the site to importing high-grade gypsum only, solely for the reason of enhancing the naturally variegated mineral which is extracted. Therefore, at present the factory relies predominantly on gypsum from the mine. It is not proposed to remove this control on the operations. Each tonne of imported high-grade gypsum (with ~90% gypsum content) enables

approximately 3 tonnes of lower-grade mine rock (~76% gypsum content) to be used.

30. The reasons for the proposed alterations to these conditions are set out by the applicant. Increased imports are sought by the company owing to the presence of naturally varying lower quality areas of mineral within the mine which have been encountered during working and through geological investigation. Although the importation of high-grade gypsum to blend with lower grade mineral is established on site, it is proposed to seek increased imports as a result of the geological variations in the seam of rock which is currently being extracted.
31. The proposed increase in imports would allow these areas to continue to be mined and utilised as a product of the required grade, rather than allow the lower grade material to be otherwise wasted. The applicant has indicated that around 12.5 million tonnes of lower grade gypsum has been identified within the planning permission boundary and that without the additional imports, it would not be possible to mine these areas, resulting in them being sterilised.
32. Since mining operations began in 1992 the thicker, higher-grade parts of the mine to the west have now been largely worked out. The mine's reserves of higher-grade gypsum (+80%) are running low and with the permitted use of approximately 90,000 tonnes of imported high-grade gypsum, the expectant mine life is currently estimated around 10 years. Allowing the proposed increase in imports of high-grade gypsum would extend the life of the mine and plant by around an additional 10 years to 2042.

### **Need for the Proposed Development to Take Place Using HGV**

33. Barrow Works does not have rail-sidings and as such it is not currently possible to bring in high-grade gypsum by rail. The company has investigated the viability of rail distribution to or from Barrow and it was found that rail-sidings would not currently be a viable option.

### **HGV Vehicle Routeing**

34. A legal agreement (Section 52 Agreement) is in place at Barrow that controls, amongst other things, lorry routeing. This requires all vehicles over 3 tonnes in weight when leaving the Access Road to do so by turning right upon reaching the Paudy Lane junction and proceed directly to the junction of the B676 Six Hills with the A46. The applicant does not propose to alter or amend the requirements as set out by this legal agreement. Should the development be granted planning permission, it would be a requirement to update the legal agreement to ensure it covers the new permission.

### **Carbon and Climate Change Considerations**

35. The applicant has summarised the measures the company has taken to limit the impacts of their operations on climate change. These include a variety of commitments to reducing direct carbon emissions across their sites.

36. With respect to carbon emissions from the proposed development the applicant has clarified that the existing operations at Barrow do not have access to rail-sidings and as such it is not currently possible to export or bring in high-grade gypsum by rail. The company has undertaken several studies over the years into the viability of rail distribution to and from Barrow. However, it was found that rail-sidings would not currently be a viable option. At the present time, high grade gypsum is imported to the Works from Bantycok Quarry, located to the south-west of Newark on Trent. Bantycok Quarry is also operated by the applicant. Gypsum is transported by road; the route uses the A46 in the main and is approximately 30 miles. The quarry at Newark is not rail connected. For rail to be utilised from the Newark site, gypsum would have to be transported to rail sidings via HGV. Further to this, no suitable rail sidings have been identified in proximity to the works at Newark.
37. The applicant has outlined the proposed need for the development. Due to the geological variations encountered within the gypsum and in order to achieve the right blend and maximise reserves from lower grade variations in the rock, it is necessary to import high-grade gypsum from external sources. The closest source to the Barrow Works is at Bantycok Quarry in Nottinghamshire. The alternative to this would be to import high-grade gypsum from Spain via docks situated on the east coast of England in Hull. The applicant states that without the additional imports of high-grade gypsum, the reserves at Barrow would be exhausted in around 10 years and the factory would either close or be reliant on 100% imported gypsum. To supplement this, the applicant has submitted a carbon footprint assessment of the alternative scenarios;
- Scenario 1: Increase imports of high-grade gypsum from Newark to 180,000 tpa. This extends the life of Barrow Mine by maximising the use of lower grade gypsum reserves and conserving the remaining higher grade gypsum reserves for a longer time period.
  - Scenario 2: Continue with the existing permitted import tonnage of 90,000 tpa and then, due to the depletion of all higher-grade gypsum reserves within the mine, and only low-grade gypsum remaining, the tonnage of Barrow mine rock would be significantly reduced to 300,000 tpa. This would need to be supplemented with increased quantities of high-grade imported rock. It is not considered that Bantycok Quarry would be capable of supplying this increased required tonnage, therefore the Company would have to rely on imports from Spain in circa 9 years' time.
38. The assessment concluded that out of the two scenarios, increasing the amount of higher-grade gypsum imports to 180,000 tpa would have the lowest carbon dioxide emission rates over the life of the mine.

### Transport

39. A Transport Assessment (TA) has been submitted in support of the application. The TA includes consideration of the existing highway conditions surrounding the proposed development and the proposed variation of planning conditions relating to vehicle movement, in terms of its implications for highway and transportation

matters. The TA includes a forecast of the traffic and movement activity associated with the proposed application and as a result the overall traffic and transport impact of the development proposals.

40. A study of road traffic accident records within the vicinity of the site was undertaken. This included details of recorded road traffic incidents within a specified study area for a five-year period ending July 2022. A total of 23 road traffic incidents were recorded as occurring within the study area and specified time frame, of which 14 resulted in injuries categorised as 'Slight', and 9 resulted in injuries categorised as 'Serious'. None of the incidents resulted in fatality. The study reviewed the available data on each incident. It was found that causation is unlikely to be linked to, or as a direct result of, a highways deficiency and that these incidents are more likely attributable to driver/rider error.
41. The TA identified that Paudy Lane and Melton Road (B676) have long been recognised as an access route for the site and have an established HGV traffic flow. The quantum of additional vehicular movements within the scope of the proposals falls within the capacity of the local and wider highway network. The link impact assessments that have been undertaken indicate that the future trip generation of the proposed development would likely to result in a 0.6% increase in total traffic movement on Paudy Lane and a 0.2% increase in total traffic movement on Melton Road (B676). These traffic impacts are within the 30% threshold advised by the relevant technical guidelines indicating that the impacts are likely to be negligible and no further assessment would be required.
42. The TA considered non-car accessibility. It was determined that non-car accessibility did not bear sufficient relevance to the proposals to warrant an exhaustive audit. However, sustainable transport within the vicinity of the site is of an adequate standard given the nature of the location and the type of development.
43. Overall, it was found that the proposed development would not create an unacceptable impact on highway safety or lead to a severe impact on the road network in terms of highways and transport.
44. The TA concluded that it is not considered that any mitigation measures are required to make the proposals acceptable in planning terms. However, in response to local concerns regarding traffic accidents the applicant proposes to replace the existing signage at Paudy Lane crossroads to provide improved warning of the crossroads for drivers.

### **Noise**

45. A Noise Assessment (NA) has been submitted in support of the application. The NA determined the impact of the additional HGV movements on ambient noise levels at the nearest noise-sensitive residential receptors. It was concluded from the ambient noise level assessments, that the additional HGV movements are not expected to have an adverse noise impact on the ambient noise environment at any of the receptor locations assessed.

46. The NA concluded that it is not considered that any additional mitigation is required to make the development acceptable in planning terms. However, the applicant proposes to provide a 1.8m high acoustic fence at the nearest residential property near the site's access road off Paudy Lane and upgrade the existing windows at The Barn, Grange Cottage, Windsor Cottage, and First Cottage residential properties if found to be required.
47. Further to the submitted NA the applicant has provided a supplementary document which comprises formal comments and clarifications from the noise consultants to address comments which were received during the consultation process from residents and Environmental Health. This is referred to in the report below.

### **Ecology**

48. The access road from the site entrance and a section of Paudy Lane hosts a variety of habitats. Habitats along the route are dominated by hardstanding with adjacent species-poor semi-improved grassland, immature plantation and semi-natural woodland. The wider area comprises a predominantly agricultural landscape.
49. Three non-statutorily designated sites are situated within 500 metres of the proposed route including the Barrow Works Grassland Candidate Local Wildlife Site (cLWS), Walton on the Wolds, Big Lane and Black Lane Verges Historic Potential Local Wildlife Site (pLWS) and the Ponds pLWS. Barrow Works Grassland cLWS which is present within the application area site, located adjacent to the length of the applicant's access road, is notable for its grassland, woodland and lake along with the presence of trailing St John's wort.
50. The habitats on site and adjacent off-site include areas of hard standing with associated species-poor grassland, a lake, mature trees, hedgerows and immature / mature woodland. Many of the habitats may qualify as habitats of Principal Importance under the NERC Act 2006 (woodland, lake, hedgerows) and Priority habitats under the Leicester, Leicestershire and Rutland Biodiversity Action Plan (woodland and lake). The remaining habitats (grassland and dry ditches) are generally species-poor, however, they do provide structure and foraging and commuting routes for the local fauna.
51. No permanent lighting is proposed along the route. Therefore, lighting conditions for commuting and foraging would be retained. All the habitats within and outside of the site would be retained and remain undisturbed, as the additional HGVs would utilise existing infrastructure. With regards to night-time flora, fauna and species, the proposed increase in vehicle movements would only take place during day time hours.
52. An ecological survey was submitted in support of the application as part of a package of further supporting information. The survey assessed the existing habitats on the site and determined how a gain in biodiversity could be achieved. It recommended that measures should be undertaken to manage the existing habitats onsite, to enhance them and to maintain them in a condition that will

continue to provide a resilient ecological network of habitats. Several biodiversity enhancements are recommended including:

- Maintenance of open grassland to improve the growth of wildflowers and to provide an open habitat for invertebrates;
- Removal of immature scrub and creation of shelter for foraging invertebrates;
- Thinning of identified tree plantations to provide shelter for grass snake and amphibians;
- The installation of ten bird boxes, one barn owl box and five bat boxes.

### **Public Rights of Way**

53. The access road to the site is 2.3km in length. Two public rights of way cross the site access road, Bridleway I4 and Footpath I23. Signage and traffic calming measures are in place where these rights of way cross the access road. The proposals would not alter the existing public rights of way which cross the site's access road.

### **Landscape**

54. The wider area comprises a predominantly agricultural landscape.

### **Heritage**

55. There are no designated heritage assets near the proposed development. However, the following properties; Paudy Farm, Horseshoe Cottage and Paudy Farmhouse along Melton Road are identified as Locally Listed buildings on the Policies Maps within The Barrow upon Soar Neighbourhood Plan 2016-2028 (Adopted 2017).

### **Planning Policy**

#### **National**

56. *The National Planning Policy Framework 2021* (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions. The NPPF advocates a presumption in favour of sustainable development at paragraph 11, and for decision-taking this means:
- approving development proposals that accord with an up-to-date development plan without delay; or,
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies as a whole.

57. Section 17 of the NPPF covers “Facilitating the sustainable use of minerals” and paragraph 209 recognises that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. It is acknowledged that minerals are a finite resource and can only be worked where they are found and as such, best use needs to be made of them to secure their long-term conservation. Gypsum is listed as a mineral resource of local and national importance in Annex 2 of the NPPF.
58. Paragraph 211 advises that, when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. Minerals Planning Authorities should ensure that: there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account any cumulative effects; any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties; restoration and aftercare are achieved at the earliest opportunity to high environmental standards.
59. Paragraph 214 relates to mineral planning authorities planning for a steady and adequate supply of industrial minerals through maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment.
60. Section 15 of the NPPF covers conserving and enhancing the natural environment. Paragraph 174 advises that planning decisions should: contribute to and enhance the natural and local environment by; protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
61. Paragraph 180 of the NPPF states that when determining planning applications, local planning authorities should apply the following principles: development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

62. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
63. Planning Practice Guidance (PPG) provides additional guidance to ensure the effective implementation of the national policy set out in the NPPF. It identifies the principal issues to be addressed including the following relevant matters: noise, air quality, climate change, traffic, landscape and visual impact, ecology, restoration, and aftercare.
64. The PPG advises that mineral planning authorities should take account of the prevailing acoustic environment and in doing so consider whether or not noise from the proposed operations would: give rise to a significant adverse effect; give rise to an adverse effect; and enable a good standard of amenity to be achieved. In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure would be above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, the PPG advises that it is appropriate to seek experienced specialist assistance when applying this policy.
65. The PPG seeks to implement the NPPF requirements to provide for the restoration and aftercare of mineral sites at the earliest opportunity, carried out to high environmental standards. It advises on the use of a landscape strategy, reclamation conditions and aftercare schemes to achieve the desired after-use of the site following working.
66. The PPG advises that the cumulative impact of mineral development is a material consideration when determining individual planning applications.
67. The PPG highlights that the NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. It notes that addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking.

#### Development Plan Policy (and emerging Plans)

68. The Development Plan in this instance is composed of the Charnwood Local Plan 2011 to 2028 Core Strategy, The Borough of Charnwood Local Plan (2004) Saved Policies, the Barrow upon Soar Neighbourhood Plan 2016-2028, the Sileby Neighbourhood Plan Review 2022-2037, and the Leicestershire Minerals and Waste Local Plan up to 2031 (Adopted 2019). Additionally, Charnwood Borough Council published the Draft Charnwood Local Plan 2021-37 as part of the process it is following to prepare a new local plan. Now the Charnwood Local Plan 2021-37 has been submitted to Government, it has entered the examination phase. As the examination is not concluded, the weight given to the identified policies varies according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections; and the degree of consistency

of the relevant policies in the emerging plan to the policies in the NPPF (in line with paragraph 48 of the NPPF).

69. The relevant policies from the relevant documents of the Development Plan are as follows:

Charnwood Local Plan 2011 to 2028 Core Strategy and the saved policies from the Borough of Charnwood Local Plan (2004)

- Policy CS 10 (Rural Economic Development)
- Policy CS 11 (Landscape and Countryside)
- Policy CS 13 (Biodiversity and Geodiversity)
- Policy CS 14 (Heritage)
- Policy CS 25 (Presumption in Favour of Sustainable Development).

The Barrow upon Soar Neighbourhood Plan 2016-2028 (Adopted 2017)

- Policy BuS1 (Ecology and Biodiversity)
- Policy BuS3 (Local Heritage Assets)

The Sileby Neighbourhood Plan Review 2022-2037 (Adopted 2022)

- Policy G1 (Limits to Development)
- Policy ENV2 (Protection of sites of environmental significance)
- Policy ENV6 (Biodiversity, hedges and habitat connectivity)
- Policy ENV7 (Protection of Important Views)
- Policy ENV9 (Footpaths and bridleways)
- Policy T2 (Highway Safety)

Leicestershire Minerals and Waste Local Plan (Adopted 2019)

- Policy DM1 (Sustainable Development)
- Policy DM2 (Local Environment and Community Protection)
- Policy DM7 (Sites of Biodiversity/Geodiversity Interest)
- Policy DM9 (Transportation by Road)
- Policy DM10 (Public Rights of Way)
- Policy DM11 (Cumulative Impact)

70. Charnwood Borough Council published the Draft Charnwood Local Plan 2021-37 (Pre-Submission Draft July 2021) as part of the process it is following to prepare a new local plan. Now the Charnwood Local Plan 2021-37 has been submitted to Government, it has entered the examination phase. The following policies within the Draft Charnwood Local Plan (2021-37) form a material consideration in decision-making but do not yet form part of the Development Plan;

- Policy DS1: Development Strategy
- Policy E3: Rural Economic Development

- Policy EV1: Landscape
- Policy EV2: Green Wedges
- Policy EV6: Conserving and Enhancing Biodiversity and Geodiversity
- Policy EV8: Heritage
- Policy EV11: Air Quality
- Policy INF2: Local and Strategic Road Network

### **Consultations – 14<sup>th</sup> December 2022**

71. An initial consultation period for consultees commenced on the 14<sup>th</sup> December 2022. The comments received are outlined below.
72. **Charnwood Borough Council (Environmental Health)** – No objection. The submitted noise assessment has been reviewed. The report's findings and the conclusions regarding the predicted impact on ambient noise levels is considered satisfactory. Whilst the additional movements and proposed hours of importation are not predicted to cause an adverse noise impact at identified residential receptors, should permission be granted, implementation of the mitigation measures proposed in the report are recommended.
73. **Barrow upon Soar Parish Council** – No objection. Concerns are raised about the concentration of lorry movements and whether it would be possible to stagger the movements.
74. **Sileby Parish Council** – No objection.
75. **Ecology (Leicestershire County Council)** – No comment. An increase in vehicle movements will have a negligible impact on the wildlife along the access route, because they will already be habituated to the disturbance. The Barrow Works grassland LWS adjacent to the site is designated for its' species rich grassland, will not be impacted by the proposals.
76. **Highways (Leicestershire County Council)** – No objection.
77. The Local Highway Authority (LHA) has been consulted on a planning application for the variation of planning conditions 8 and 10 of planning permission reference 2001/2001/2 to increase imports of gypsum and the associated numbers of HGV movements and a reduction in the permitted hours of importation. The LHA understand that this application is a resubmission of planning application 2018/2589/02 which was refused on 23rd June 2020, however it should be noted it was not refused on highway grounds. The LHA had advised no objection to the application on 26<sup>th</sup> March 2020. These highway observations are in response to the documents which have been submitted in support of this planning application.
78. The LHA have reviewed both the revised Planning Statement and revised Transport Assessment and as previously advised have no objection to the proposed variation of conditions 8 and 10 of planning permission 2001/2001/2 as the proposal is not considered to have an unacceptable impact on highway safety and neither would the residual cumulative impacts on the highway

network would be severe in accordance with paragraph 111 of the National Planning Policy Framework.

79. The LHA recommend the varied conditions to read as follows:

- **Condition 8:** *‘The number of lorry movements associated with the importation of gypsum to the Barrow Works shall not exceed 50 for any working day, Monday – Friday and shall no exceed 26 for any Saturday. Records of lorry movements shall be maintained on a monthly basis and shall be made available to the Head of Planning, Heritage and the Natural Environment at any time upon request. All records shall be kept for at least 12 months.’*
- **Condition 10:** *‘No lorries carrying gypsum shall enter the site except between the hours of 0700 and 1900 on weekdays (Mondays to Fridays) and 0800 and 1300 on Saturdays. No lorries carrying gypsum shall operate on any Sunday or any Public or Bank Holiday.’*

80. **Charnwood Borough Council (Planning), Public Health England (East Midlands) and Seagrave Parish Council** – No comments received.

81. **Mrs. H. Fryer CC (Quorn & Barrow) and Mr. R. J. Shepherd CC (Sileby & The Wolds)** have been notified of the application.

#### **Publicity – 21<sup>st</sup> December 2022**

82. The planning application has been publicised by press notice in the Loughborough Echo on 21<sup>st</sup> December 2022 and by site notices displayed on the 21<sup>st</sup> December 2022 and neighbour notification letters sent to nearby residential properties on the 21<sup>st</sup> December 2022. Neighbours were given 24 days to make comments to account for Bank Holidays over the Christmas period.

#### **Representations Received**

83. During this consultation period six representations were received, of which five were objections and one raised concerns. The representations raise objections on the following points which have been summarised for the purposes of this report:

- Lack of clear evidence of how the proposal would make a positive contribution to reducing its effects on climate change;
- The proposal should not be a permanent change;
- Potential detrimental impacts on residents, leisure users and local wildlife from noise and traffic;
- The site has not complied with the requirements of the existing planning conditions with respect to speed cameras and speed monitoring. The company should install speed cameras;
- Ongoing litter issues will be exacerbated;

- Planning permission should only be granted subject to any more increases in gypsum importation being brought in by rail;
- The site was never intended to be a production site for imported material and activities on the site are increasing incrementally over time;
- The hours proposed are suitable but not the numbers of vehicles;
- Concerns about the details and accuracy of the submitted noise and transport assessments;
- All lorries should have tachographs checked on arrival at the site;
- Solar speed warning signs should be provided;
- If approval is given, then no further increases in imports should be granted in the future;
- The proposals are unnecessary;
- Imports should be brought in by rail instead;
- The proposals would have a detrimental impact on all road users, including cyclists and horse riders;
- Existing issues around speeding HGVs associated with the site should be addressed and would be exacerbated;
- Detrimental impacts on the amenity of local residents, including air quality, litter and noise and vibrations from lorries;
- Detrimental impact on the maintenance costs of Paudy Lane,
- The applicant is not currently adhering to the existing permitted times for HGV movements;
- Location for the proposed development is unsuitable as it is a rural area;
- Increased danger to all road users;
- The importation of gypsum is not currently permitted;
- The plant should only be used for the production and manufacture of gypsum products from the Barrow Mine;
- The development does not accord with the Development Plan;
- Better signage at the crossroads is supported but surfacing should not be used as it adds to noise issues when lorries go past;
- No benefits for local residents are proposed;
- The quality of driving for those lorries already accessing the site is very poor;
- The company have never offered to replace any double glazing on local properties;
- There is no end date to the operations at Barrow Mine and no end date for impacts caused by lorries.

### **Further Information and Further Publicity**

84. Following concerns raised in representations further information to support the application was submitted by the applicant. The information in relation to noise was requested by Environmental Health upon reviewing residents' concerns regarding the submitted noise assessment. The package of further information comprised the following:

- A formal response to comments received on the noise assessment;
- A carbon footprint assessment;

- An ecological walkover survey;
  - Further comment from the applicant to addresses comments received by local residents during the planning consultation process on a number of different themes including sustainability, rail, speed cameras, driver behaviour, noise, highways and impacts on local businesses.
85. Following submission of this information, the planning application was further publicised by neighbour notification letters. Letters were sent to residential properties on the 25<sup>th</sup> April 2023. Neighbours were given 23 days to make comments to account for public/bank holidays. Given that the submission of further information included further supporting information to address concerns raised by residents and did not alter the details of the proposed development it was not considered necessary to publicise again by way of site notice or press notice. Consultations were sent out to consultees on the 25<sup>th</sup> April 2023. The comments received are outlined below.

#### Representations Received

86. Following this additional consultation period, a total of five representations were received, of which five were objections. Objections were made on the following grounds:
- The additional information does not alter or address objections previously made. The additional information is not directly relevant to the proposed development;
  - Telematics to provide data around speeding and driver availability are not available for vehicles used to import gypsum rock as these are contract vehicles;
  - Carbon emissions of contract vehicles are not able to be guaranteed;
  - The data within the transport and noise surveys remains flawed. Previous issues raised with the technical noise assessment were valid;
  - It is currently unsafe to access cottages on Paudy Lane;
  - The applicant has failed to address any of the planning reasons for refusal for the application reference 2018/2589/02;
  - Any approval should be limited to imports of raw gypsum mined in Newark, for a limited period and whilst a rail siding is constructed;
  - Speed cameras should be provided;
  - With regards to vehicle/driver behaviour, a danger to other road users will be increased;
  - With regards to highways, since the application was submitted a number of road traffic incidents have occurred within the local area and issues with speeding remain;
  - Increased raw gypsum imports would increase the movements associated with product delivery from the site onto local roads;
  - Some HGVs do not adhere to legal agreement and currently travel along the B676 Melton Road through Burton On The Wolds village;
  - Existing issues around personal safety of road users along Paudy Lane and local roads.

**Consultations – 25<sup>th</sup> April 2023**

87. **Charnwood Borough Council (Environmental Health)** – No objection. The updated noise response (SLR Ref: 403.064434.00001.002 version 3) has been reviewed and the findings are satisfactory.
88. **Sileby Parish Council** – No objection.
89. **Highways (Leicestershire County Council)** – No objection.
90. Having reviewed the submitted Further Information document, the LHA have no further comments and continue to advise no objection. This is on the basis that the LHA does not consider that the proposed variation of conditions would have an unacceptable impact on highway safety and nor would the residual cumulative impacts on the highway network be severe, in accordance with paragraph 111 of the National Planning Policy Framework.

**Highways Comments on Representations**

91. The LHA considers that the highway concerns raised in the representations can be grouped in the following categories: vehicle speeds; weight restriction; lack of consideration of transport sustainability; and validity of traffic surveys.
92. In relation to the speed of current HGVs and current driver behaviour, the LHA notes that this is an existing situation which would not be significantly exacerbated by the proposed additional 26 HGV movements per day. The LHA would also note that this is a matter which is not within the LHAs remit but which can be enforced by the Police.
93. Regarding the weight restrictions in place around the site, the LHA understand these are to remain in place.
94. The LHA notes the concerns raised that transport sustainability has been insufficiently considered. However, given that the application is for increased gypsum import by HGVs, further consideration of sustainability accessibility is not required in this instance as no sustainable transport opportunities are available with regard to these types of movement.
95. Whilst residents have questioned the validity of the traffic surveys including the location of surveys and recorded data, the surveys undertaken demonstrate the existing traffic situation including traffic volume and speeds. The LHA would also note that, in this instance, the LHA would not have required the applicant to submit any traffic surveys given the nature of the proposed variation of condition application.
96. **Ecology (Leicestershire County Council)** – No additional comments received.
97. **Barrow upon Soar Parish Council** – No additional comments received.

98. **Public Health England (East Midlands)** – No comment received.
99. **Charnwood Borough Council (Planning)** – No comment received.
100. **Seagrave Parish Council** – No comments received.
101. **Mrs H. Fryer CC (Quorn & Barrow) and Mr. R. J. Shepherd CC (Sileby & The Wolds)** have been notified of the application.

### **Assessment of Proposed Development**

#### **The principle and need for the development**

102. The importation of high-grade gypsum to blend with lower grade mineral was initially approved in June 1992, which was subsequently extended by numerous later permissions. In March 1995, permission was granted for the importation of up to 90,000 tpa of high-grade gypsum by road for a temporary period, ending in December 1996. In October 1996 permission was granted for the importation of up to 120,000tpa by road for a further temporary period, ending in December 2001. In October 2001, a permanent permission was granted for the importation of up to 90,000tpa (permission reference 2001/2001/2). In 2005 a temporary permission was granted for the importation of up to 170,000 tonnes of high-grade gypsum (permission reference 2005/2313/2). This permission has since lapsed and the limit for importation of high-grade gypsum remains at 90,000tpa under permission reference 2001/2001/2. This application seeks to increase the amount of high-grade gypsum that can be brought into the site to approximately 180,000 tpa. Additionally, it is proposed to reduce the permitted hours for those HGV movements associated with the importation of gypsum.
103. The plant has a production capability of 900,000 tpa and currently produces approximately 800,000 tonnes of plaster a year. Planning permission is sought to allow additional HGV movements associated with the imports of high-grade gypsum to allow an increase in high-grade gypsum imports from approximately 90,000 to 180,000 tonnes per annum at the site. Should the proposed increase in imports be granted planning permission, the bagged plaster factory would continue to rely predominantly on gypsum from the mine.
104. During the consultation process objections and concerns were raised in relation to the principle of development, the location of the proposed development and the scale of the proposed operations within the locality. The site is located between the villages of Barrow upon Soar, Sileby and Seagrave.
105. The existing allowance for the importation of gypsum to the locality is considered an associated ancillary industrial activity solely for the benefit of mineral processing. There are sustainability benefits in allowing the importation of gypsum in order to fully maximise the mineral reserves on the site and to avoid the sterilisation of the lower grade mineral which is present. This is recognised in paragraph 209 of the NPPF (2021) which highlights the importance of ensuring

that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. It recognises that since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

106. The importation of gypsum to the site is limited to the lifespan of the reserves at the mine, as the site is required to remove all buildings and structures including those for the processing of rock once mineral extraction on the site ceases. Therefore, once mineral extraction at the sites ceases, the site is required to be restored and there would be no further imports to the site. Additionally, Condition 7 of permission 2001/2001/02 requires that the importation of gypsum to be limited only for the purpose of enhancing the quality of gypsum rock extracted from the Barrow Mine and for no other purpose. These controls would be retained should permission be granted and the proposed development would be temporary.
107. The need for the development has been outlined by the applicant. Approximately 12.5 million tonnes of lower grade gypsum has been identified within the permitted planning permission boundary. Without the additional imports proposed it would not be possible to mine these areas, resulting in them being sterilised. The existing higher-grade reserves need to be conserved to protect the life of the mine and ensure that the factory is supplied with a suitable product to make plaster. The only way that this can be achieved is by increasing the amount of imported gypsum. Each tonne of imported high-grade gypsum enables approximately 3 tonnes of lower-grade mine rock to be used. Doing this will extend the life of the mine and plant by around 10 years to 2042.
108. Paragraph 211 of the NPPF advises that, when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.
109. Overall, it is considered that the principle of the development has been long established at the site. The proposed development would continue to ensure that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. It recognises that since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation. Here, great weight is given to the benefits of mineral extraction, including to the economy.
110. Notwithstanding this, Paragraph 211 requires that Minerals Planning Authorities ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account any cumulative effects; any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties and restoration and aftercare are achieved at the earliest opportunity to high environmental standards.
111. Therefore, the environmental, transportation and cumulative impacts of the proposal in the locality are assessed in full and considered below.

Location of the Proposed Development

112. During the consultation process objections and concerns were raised to the location of the proposed development and the scale of the proposed operations within the locality. The site is located between the villages of Barrow upon Soar, Sileby and Seagrave and lies within the Green Wedge and is designated as Countryside.
113. The existing allowance for the importation of high-grade gypsum to the locality is considered an associated ancillary industrial activity solely for the benefit of processing the mineral which is present at the mine. As noted above, paragraph 209 of the NPPF (2021) recognises that minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.
114. Given that the existing importation of high-grade gypsum to the site is for the purpose of enhancing existing lower grade gypsum to make suitable products, the importation of gypsum to the site is limited to the lifespan of the reserves at the mine. At present, planning controls require the site to remove all buildings and structures including those for the processing of rock once mineral extraction on the site ceases. Therefore, once mineral extraction at the sites ceases, the site is required to be restored and there would be no further imports to the site. Additionally, Condition 7 of permission 2001/2001/02 requires that the importation of gypsum to be limited only for the purpose of enhancing the quality of gypsum rock extracted from the Barrow Mine and for no other purpose. This control would be retained should permission be granted.
115. Overall, the location of the site and its operations including the importation of high-grade gypsum are well established. The permitted mineral extraction and importation of high-grade gypsum has temporary planning permission until mineral extraction at the site ceases. It is not proposed to vary this. It is therefore not considered that the proposal would be detrimental to the character and appearance of the countryside and as such accords with Policy CS 10. The relinquishment of permitted hours of HGV movements for the importation of gypsum demonstrates the proposal has taken into account and mitigated its impacts upon tranquillity in accordance with Policy CS 11. It is not considered that the proposal would adversely impact local views and so it accords with Policy ENV7.

Local Amenity, Noise, Dust, Odour and Litter

116. An independent technical noise report was submitted in support of the application. In addition to this, further information in relation to noise was submitted by the applicant in response to concerns raised during the first consultation period. The information presents an assessment of the noise impact of the proposed additional movements at noise sensitive locations. It was found that the additional importation of gypsum would not have significant impact on noise. Following review of the further information submitted, Charnwood Borough

Council (CBC) Environmental Health raised no concerns in response to the application.

117. Whilst the additional movements and proposed hours of importation are not predicted to cause an adverse noise impact at identified residential receptors, should permission be granted, implementation of the mitigation measures proposed by the applicant are recommended to be undertaken by CBC Environmental Health. Given that these measures are not considered necessary to mitigate the proposed development, it is considered that any planning condition requiring the installation of the acoustic fence or replacement window glazing would not meet the relevant tests for planning conditions, as set out in paragraph 55 of the NPPF. These are whether a planning condition is: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. In this instance such a condition would not be considered necessary. With respect to the glazing of windows, any planning condition would also not be considered enforceable since it would lie outside of the planning permission boundary.
118. Given that the proposed development is for an increase in HGV movements, it is not considered that the proposed development would result in adverse dust, odour or litter issues.
119. Overall, with respect to local amenity, the proposals are found to accord with Policy DM2.

#### Air Quality

120. With regards to air quality, Charnwood Borough Council use screening tools to review and assess air quality when new or modified sources of emissions are proposed. Traffic sources are normally screened out unless falling under the following; a significant change in Heavy Duty Vehicles (HDV) flows on local roads with relevant receptors of:
- 2,500 HDVs/day - exposure within 10m from kerb (20m in conurbations > 2m inhabitants) Or:
  - More than 25 Annual Average Daily Traffic within or adjacent to an Air Quality Management Area
  - More than 100 Annual Average Daily Traffic elsewhere.
121. The proposal was screened out of any further requirement for dispersion modelling or monitoring and is likely to have a negligible impact on local air quality. Overall, it is found that the development would not result in an adverse impact upon local air quality. With respect to air quality and emissions, the proposals are found to accord with Policy DM2.

#### Public Rights of Way

122. The proposals would not alter the existing public rights of way which cross the site's access road. The LHA do not have any concerns regarding additional HGVs crossing over the PROW and the PROW would continue to be retained

and protected. Therefore, subject to the imposition of the recommended conditions and the retention of the legal agreement controlling routeing to and from the site, the proposals are found to accord with paragraph 109 of the National Planning Policy Framework, Policies DM9, DM10 and ENV9.

### Highways and Transport Considerations

#### *Assessment of road impacts*

123. Following the consideration of the application, the submitted TA and the submitted further information, the LHA have no further comments and continue to advise no objection. This is on the basis that the Local Highway Authority does not consider that the proposed variation of conditions 8 and 10 would have an unacceptable impact on highway safety and nor would the residual cumulative impacts on the highway network be severe, in accordance with paragraph 111 of the National Planning Policy Framework.
124. Additionally, as it would not result in a significant increase in HGV movements, it would not be reasonable for the LHA to seek any improvement works on the local highway network. Whilst it would be unreasonable to seek to condition the proposed signage work, these measures would be welcomed if the applicant wished to proceed. However, such works are not required to mitigate the impact of this proposal. The applicant would therefore not be obliged to undertake any such works.
125. With regards to HGV movements through local villages, the site has existing mitigation measures to limit the impacts of transporting materials by road and the routes HGVs can take to access the site. These include an existing legal agreement which controls the routeing of all lorries to and from the site. This ensures all HGV movements are made via the strategic road network and avoid passing through residential areas where possible. A planning condition requires that all gypsum imported to the site only uses the site access off Paudy Lane. These requirements would be retained. Given the above, and subject to conditions and an updated legal agreement, the proposal accords with Policy T2.

#### *Use of rail*

126. During the consultation process objections were raised with regards to the proposed increase in HGV movements and that the applicant should instead be utilising the rail network. The applicant has provided evidence as to why the use of rail is not viable for the importation of gypsum. The evidence demonstrates that given the source locations for the imported rock there are no suitable railhead options. The Company have previously investigated the option of creating sidings for the site. However, this option remains unviable.
127. Representations were received which requested that should permission be granted; a temporary permission should only allow for sufficient time for the company to set up a rail link to the site. Given that it is not considered that the proposal would have an unacceptable impact on highway safety and nor would the residual cumulative impacts on the highway network be severe it is not

considered that there are sufficient grounds to limit any planning permission granted on this basis. Notwithstanding, as noted above, the importation of gypsum to the site is limited to that needed for enhancing the quality of mineral extraction at the site and this would remain the case should permission be granted.

128. Given the assessment in the paragraphs above, it has been demonstrated that in this instance, road transport is the only practicable and environmentally preferable alternative; the proposed access arrangements would be safe and appropriate to the proposed development and the impact on road safety of the traffic generated would be acceptable; the highway network is able to accommodate the traffic that would be generated and would have an acceptable impact on the environment of local residents; the proposal is in close proximity to the County's lorry network and would not result in unnecessary impact on residential areas and minor roads. Therefore, the proposal is found to accord with Policy DM9.

*Speeding and driver behaviour*

129. Objections and concerns were raised with regards to alleged existing issues around vehicles which travel along Paudy Lane speeding and demonstrating poor driving behaviour and that the proposals if permitted, would exacerbate these issues. It should be noted that whilst highway safety and traffic impacts are material planning considerations, speeding and driver behaviour and their potential exacerbation are not. These matters are controlled by civil law. Notwithstanding this, the applicant has existing mitigation measures to control the speed of lorries which access its site. These include a voluntary speed limit of 40mph on Paudy Lane which is reinforced through company procedures in addition to a complaint handling system. It is proposed that these existing measures would be retained.

*Compliance with existing planning conditions*

130. Objections and concerns were raised to the site's compliance with existing planning conditions. Particularly, the requirement of Condition 4 of planning permission 2001/2001/02 which required the implementation of several traffic mitigation measures. Part b) of the condition required, 'Provision of traffic speed cameras (within the public highway) which are privately owned and operated by the Company. The traffic speed cameras shall be installed to monitor vehicles travelling to and from the Barrow Works'. The condition goes on to state, 'All information obtained from the traffic speed cameras shall be made available to the Mineral Planning Authority within 7 days of a written request by him'.
131. Following the grant of permission 2001/2001/02 it was found that the installation of speed cameras would be difficult to provide owing to the lack of convenient electricity supply. Additionally, correspondence from the Local Highway Authority indicated that mobile cameras may be more effective than one static camera. Following this, a mobile speed camera scheme was submitted to the Planning Authority. The applicant used an independent contractor to carry out random speed checks along Paudy Lane for a period of 6 months. The applicant has

been in discussions with the Local Highway Authority and it is considered that the permanent installation of speed cameras remains an unviable option. Given that speeding is a matter of civil law, it is not considered that any further assessment of the viability for the installation of speed cameras on Paudy Lane is required.

132. It is considered that Condition 4 of planning permission 2001/2001/2 does not meet the relevant the tests for planning conditions as set out in paragraph 55 of the NPPF. The imposition of the planning condition was not *necessary*, given that speeding vehicles outside of the site boundary are a matter for civil law and therefore not *relevant to planning*. Additionally, given that the monitoring must take place outside of the site boundary, the planning condition remains unenforceable. Therefore, this requirement should no longer be imposed should permission be granted. It is proposed that this condition be removed from any subsequent decision notice.

#### Ecology, nature conservation and biodiversity net-gain

133. There would be no risk of habitat loss and no adverse effects to the surrounding non-statutorily designated sites. No permanent lighting is proposed along the route. Therefore, lighting conditions for commuting and foraging would be retained. All of the habitats within and outside of the site would be retained and remain undisturbed.
134. An ecological walkover survey was submitted in support of the application. The survey assessed the existing habitats on the site and determined how a gain in biodiversity could be achieved.
135. Subject to the proposed mitigation measures being required by way of condition, the proposal is considered to accord with Policy CS 13, Policy BuS1, Policy ENV2, Policy ENV6 and Policy DM7.

#### Heritage

136. There are no designated heritage assets near the proposed development. However, the following properties; Paudy Farm, Horseshoe Cottage and Paudy Farmhouse along Melton Road are identified as Locally Listed buildings on the Policies Maps within The Barrow upon Soar Neighbourhood Plan 2016-2028 (Adopted 2017). Given the nature and scale of the proposed development and the distance from the properties to Paudy Lane where increased HGV numbers would arise, it is not considered that the proposal would have any impacts upon these properties from a heritage perspective. Therefore, the proposal is found to accord with Policies CS 14 and BuS3.

#### Health and Well-being Impacts

137. This application relates to a resubmission of planning application reference 2018/2589/02, which was recommended for approval by Officers, but refused by members of the Development Control and Regulatory Committee. The reasons for refusal included '1. Failure to accord with Policy DM1, with regards to the

environmental and social impact upon residential properties in the locality. The proposed mitigation of the acoustic fencing is not considered sufficient to mitigate against the noise, amenity and *health impacts upon the residents of the nearest residential property* and '3. With respect to the proposed increase in vehicle movements, the applications fails to accord with Paragraph 8 of the NPPF, with regards to bullet points b) and c) in relation to the social and environmental objectives, respectively. *With regards to the social objective the application would fail to support communities' health, social and cultural well-being*'.

138. During the consultation process for this planning application objections on the grounds of health and well-being have been received.
139. National planning policy stresses the importance of health and well-being, and this includes both physical and mental health. The NPPF (2021) is organised around three core sustainable development objectives. The social objective, 'to support strong, vibrant and healthy communities', should support health, social and cultural well-being. Section 8 of the NPPF 'Promoting Healthy and Safe Communities', states that planning policies and decisions should, 'enable and support healthy lifestyles, especially where this would address identified local health and well-being needs'. Paragraph 96 acknowledges that access to a network of high-quality open spaces and opportunities for physical activity is important for the health and well-being of communities. The NPPF does include people with mental health needs within its definition of disability but does not specifically mention mental health elsewhere. It should be noted that where a policy refers to disability this can be taken to include mental health conditions as the definition of disability under the Equality Act 2010 refers to a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on a someone's ability to carry out normal daily activities.
140. The PPG identifies the Director of Public Health as the first point of contact on population health and well-being issues for planners. It states that they should be consulted on any planning applications that are likely to have a significant impact on the health and well-being of the local population, in order to work together on any necessary mitigation measures, using a health impact assessment where appropriate.
141. Although it was not considered likely that this application would result in significant impacts upon the health and well-being of the local population, a consultation was sent to Public Health England (East Midlands) and no objection/concern was raised. It was not considered that a health impact assessment was required in this instance. No objection or concerns were raised by Charnwood Borough Council Planning or Environmental Health. It was confirmed by Environmental Health that no concerns are raised with regards to air quality.
142. In the assessment, it was not found that the acoustic fence was required to mitigate against the proposed development. It should be noted that in the consideration of the previous application reference 2018/2589/02 it was considered necessary to recommend a condition to require the installation of the acoustic fence as it would have mitigated against the cumulative impacts of two

applications which were being considered alongside each other (planning application references 2018/2588/02 and 2018/2589/02), both applications were refused by the Board. The previously associated application to change HGV product delivery times (2018/2588/02) would have resulted in additional night-time noise impacts and this application has not been re-submitted for consideration and so these potential cumulative impacts are removed.

143. Overall, given the proposed development and with regard to cumulative impacts in relation to health and well-being, it is considered that the proposal would not have an adverse impact upon communities' health, social and cultural well-being.

#### Sustainability of the Proposed Development

144. When considering proposals for minerals development, the Minerals Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF (2021). Proposals should contribute to the three dimensions (economic, environmental and social) of sustainable development. The proposal, if permitted, would allow the company to maximise a finite resource and to make best use of it. This would continue to ensure a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs, in line with paragraph 209 of the NPPF. Additionally, this would continue to provide jobs at the site whilst it is operational. The proposal accords with the NPPF in supporting economic growth and this should be given considerable weight in favour of the application.
145. This must be balanced against the environmental and social objectives of sustainable development. With respect to the above assessment, the application, if granted permission would not have significant impacts upon the local highway, local environment or on local amenity including health and wellbeing. Therefore, overall, the proposal is found to accord with the principles of sustainable development and Policies CS 25 and DM1. Although the proposed development falls outside of the limits to development within the Sileby Neighbourhood Plan, the development would be controlled in line with local and national strategic planning policies and therefore accords with Policy G1.

#### Climate Change

146. Policy DM1 Sustainable Development requires the Authority to take a positive approach when considering proposals for minerals and waste development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy goes on to state that proposals should contribute to the three dimensions (economic, environmental and social) of sustainable development, as well as provide clear evidence of how a proposal would make a positive contribution to reducing its effects on climate change.
147. The submitted supporting planning statement outlines a number of measures that the applicant is taking to reduce the businesses effects on carbon emissions and climate change. Whilst these initiatives by the company are recognised, they are not directly linked to the proposed development.

148. Further to this, a whole life carbon assessment footprint assessment for the proposal was submitted. With respect to carbon emissions from the proposed development the applicant has clarified that the existing operations at Barrow Works do not have access to rail-sidings and as such it is not currently possible to export either finished goods or bring in high-grade gypsum by rail, which may, if it were possible, result in lower carbon emissions. The company has undertaken several studies over the years into the viability of rail distribution from Barrow. However, it was found that rail-sidings would not currently be practicable nor a viable option.
149. The applicant has outlined in the proposed need for the development that due to the geological variations encountered within the gypsum and in order to achieve the right blend, it is necessary to import high-grade gypsum from external sources. The closest source to the Barrow Works is at Bantycock Quarry in Nottinghamshire. The alternative to this would be to import high-grade gypsum from Spain via docks situated on the east coast of England in Hull. The applicant states that without the additional import of high-grade gypsum, the reserves at Barrow would be exhausted in around ten years and the factory would either close or be reliant on 100% imported gypsum.
150. The submitted whole life carbon footprint assessment reviewed each of these alternative scenarios;
- Scenario 1: Increase imports of high-grade gypsum from Newark to 180,000 tpa. This extends the life of Barrow Mine by maximising the use of lower grade gypsum reserves and conserving the remaining higher grade gypsum reserves for a longer period;
  - Scenario 2: Continue with the existing permitted import tonnage of 90,000 tpa and then, due to the depletion of all higher-grade gypsum reserves within the mine, and only low-grade gypsum remaining, the tonnage of Barrow mine rock would be significantly reduced to 300,000 tpa. This would need to be supplemented with increased quantities of high-grade imported rock. It is not considered that Bantycock Quarry would be capable of supplying this increased required tonnage. Therefore, the company would have to rely on imports from Spain in circa 9 years' time.
151. The assessment concluded that out of the two scenarios, increasing the amount of higher-grade gypsum imports to 180,000 tpa would have the lowest carbon dioxide emission rates over the life of the mine.
152. It is recognised that the proposed development would result in an overall increase in vehicle movements to and from the site and thus would result directly in greater carbon dioxide emissions when comparing it to the present day. However, given the carbon assessment and the findings of the alternative scenarios proposed, it was found that increasing the amount of higher-grade gypsum imports to 180,000 tpa would have the lowest carbon dioxide emission rates over the life of the mine. Therefore, overall, it is identified that the proposed development would make best use of existing resources whilst limiting carbon emissions from the works over the life of the mine and is found to accord with

Policy DM1.

### Cumulative Impact

153. It is always appropriate to consider the cumulative impact of a number of separate effects from a single site. Adverse cumulative impacts may include increased levels of noise or dust or impacts upon the local highway network. No other live planning applications are being considered within or surrounding the immediate vicinity of the site which would be relevant to the consideration of the proposed development within this report with regards to local amenity. It is not considered that the proposed development when considered in addition to the existing operations onsite would result in adverse cumulative impacts in terms of local amenity, noise or other environmental pollution. No statutory consultees have highlighted concerns regarding potential cumulative impacts. The LHA does not conclude that the increased HGV movements and amended hours would have unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe. Overall, the proposal is found to accord with Policy DM11.

### Other

154. A revised set of planning conditions is proposed, which removes those conditions from the 2001 planning permission which are no longer relevant. For example, those relating to the submission of building details or the storage of oils which is now controlled and monitored by the site's Environmental Permit and the Environment Agency. Additionally, as noted above, conditions which would not meet the six tests as set out in paragraph 55 of the NPPF have been removed, for example in relation to speed cameras and speed monitoring.

### Conclusion

155. By reason of the above assessment, it is considered that the proposal is in general accordance with the development plan. In particular, policies DM1, DM2 and DM7 which relate to sustainable development, local environment, community protection and sites of biodiversity interest and policies DM9 and DM11 which relate to the transportation of mineral by road and cumulative impact.
156. The relevant development control policies within the development plan provide the basis for the assessment. The proposal has also been assessed against national planning policies and guidance contained in NPPF and PPG and is considered to reflect the principles of sustainable mineral development.
157. It is considered that subject to the imposition of planning conditions and the prior completion of a legal agreement to ensure the continued imposition of lorry routing to and from the site, the proposed development would be acceptable.

**Statement of Positive and Proactive Engagement**

158. In determining this application the Mineral Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

**Recommendation**

- A. PERMIT subject to the conditions as set out in the Appendix A and the prior completion of a legal agreement to ensure the continued imposition of lorry routeing to and from the site;

**Officer to Contact**

Amelia Mistry (Tel: 0116 305 7326)

E-Mail [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

## Appendix A

### Conditions

1. The development shall be commenced within 3 years of the date of this permission. Written notification of the commencement of the development shall be provided to the Mineral Planning Authority within seven days from the date of the commencement.

*Reason: 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. The siting, design and external appearance of all the buildings and plant shall be maintained in accordance with those details approved by the Mineral Planning Authority on the 7<sup>th</sup> January 1988 under application reference 1987/2544/02, the details approved under Condition 3 of planning permission 87/1467/2 and the details contained in the submitted planning application no. 2001/2001/02 dated 17<sup>th</sup> July 2001 and the accompanying drawings.

*Reason: For the avoidance of doubt and to ensure that the development is maintained in a satisfactory manner in accordance with the approved details.*

3. All plant, machinery, structures and buildings shall be removed from the site and the site cleared to the satisfaction of the Mineral Planning Authority within 12 months of the cessation of the mining operations at Barrow Mine.

*Reason: To ensure the satisfactory restoration of the land in accordance with Policy DM12 of the Leicestershire Minerals and Waste Local Plan (Adopted 2019).*

4. The importation of gypsum shall be limited only to desulphogypsum or other high quality gypsum to be used for the purpose of enhancing the quality of gypsum rock extracted from the Barrow Mine.

*Reason: To accord with the terms of the application and for the avoidance of doubt.*

5. The number of lorry movements associated with the importation of gypsum to the Barrow Works shall not exceed 50 for weekdays (Monday-Friday) and a maximum of 26 on Saturdays, with no more than 6 in any one hour on Saturdays. A record of daily lorry movements pertaining to those lorries associated with the importation of gypsum shall be maintained and shall be made available to the Mineral Planning Authority at any time upon request. All records shall be kept at least 12 months.

*Reason: To protect the amenities of the area and to enable the Mineral Planning Authority to monitor the development and to accord with the terms of the application. To accord with Policies DM 2 and DM 9 of the Leicestershire Minerals and Waste Local Plan (Adopted 2019).*

6. No lorries carrying gypsum shall enter the site except between the hours of 0700 and 1900 on weekdays (Monday to Fridays) and 0800 and 1300 on Saturdays. No lorries carrying gypsum shall operate on any Sunday or any Public or Bank Holiday.

*Reason: To protect the amenities of the area and to accord with the terms of the application. To accord with Policies DM 2 and DM 9 of the Leicestershire Minerals and Waste Local Plan (Adopted 2019).*

7. The sole means of vehicular access to the site shall be restricted to the access road and junction from Paudy Lane. All alternative accesses shall remain permanently closed to the satisfaction of the Mineral Planning Authority.

*Reason: To prevent heavy vehicles travelling through the surrounding villages. To accord with Policies DM 2 and DM 9 of the Leicestershire Minerals and Waste Local Plan (Adopted 2019).*

8. Within 6 months of commencement of development, a detailed ecological mitigation and biodiversity enhancement scheme shall be submitted to the Mineral Planning Authority to outline details and timings for the work and subsequent maintenance and management of habitats as set out in the submitted Barrow Works – Gypsum HGV Movements - Ecological Walkover Survey dated 22 March 2023. The work in the scheme shall be retained, protected and maintained in accordance with the principles of good forestry and husbandry for the duration of the development hereby permitted.

*Reason: To maintain and enhance the ecological habitats on the site and to provide for a net-gain in biodiversity. To accord with Policy DM 7 of the Leicestershire Minerals and Waste Local Plan (Adopted 2019).*

9. In all other respects, the development shall be carried out in accordance with the conditions attached to planning permission 87/1467/2 dated 28<sup>th</sup> September 1987.

*Reason: For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner in accordance with the approved details.*

**DEVELOPMENT CONTROL AND REGULATORY BOARD****22 JUNE 2023****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

<b>APP.NO.</b>	2023/10047/04 (202/CM/0037/LCC)
<b>DATE OF VALIDATION:</b>	31 March 2023
<b>PROPOSAL:</b>	Retention of existing hardstanding, including existing and proposed landscaping
<b>LOCATION:</b>	Bosworth Marina, Carlton Road, Market Bosworth, Leicestershire, CV13 6PG
<b>APPLICANT:</b>	Bosworth Marina
<b>RECOMMENDATION:</b>	Permit, subject to conditions

**Circulation Under Local Issues Alert Procedure**

Mr. B. Harrison-Rushton CC

**The Site and Surroundings**

1. Bosworth Marina comprises an established canal boat marina for tourist (non-residential) boat moorings. The overall site comprises an approximately 7.5 hectare facility with mooring access taken from the Ashby de la Zouch Canal. Mooring facilities are taken from the main canal to the east and form a water-based L-shape with administration building, clubhouse and car parking within the 'L' between canal and marina facilities.
2. The north and western parts of the site are formed of amenity grassland, flood storage, wetlands and landscaping. The main access to the site is from Carlton Road with the application site being contained at this point and to the south.
3. The marina is set at the western entrance to the village of Market Bosworth opposing the sports club on Wellsborough Road.
4. The site is set outside of the main village of Market Bosworth. It is not located within the Conservation Area and is in flood zone 1 (low probability of flooding).

## **Background and Planning History**

5. The marina site has a long history, originally dealt with as an application by the Borough Council in 2002. Ongoing revisions during this time between the Borough Council and the applicant eventually resulted in the application being dealt with by the County Council due to the requirement for the importation of 35,000 cubic metres of inert waste material.
6. Planning application 2011/0077/04 (2011/C421/04) was submitted to the County Council in February 2011 and granted permission on 22 May 2012. The application was EIA development and included an Environmental Statement.
7. The application was granted permission subject to numerous conditions which included condition 5 requiring the submission of a landscaping scheme. This was submitted, shown on plan TNA\_413\_01, and other supporting documents, and agreed on 17 May 2013. Condition 6 required the implementation of the landscaping scheme in the first available planting season following completion of the clubhouse building.
8. The clubhouse building was, according to Borough Council records, substantially complete around September 2014. Alterations to the use of the first floor of this building were proposed to the Borough Council in 2016 and 2018 to change this from offices to a café and then back again (reference 16/00088/FUL and 18/00933/FUL respectively).
9. Landscaping was implemented in stages following the completion of the building and has continued in a fairly piecemeal fashion over the intervening 8-9 years.
10. An application for a new café building was proposed to the north-west corner of the site in 2019 and submitted to Hinckley and Bosworth Borough Council. This application was refused permission due to it not being demonstrated there was a need for the café, the position of the building intruding on the rural areas beyond and not conserving or enhancing features of nature conservation. A revised application was submitted in 2021 (21/00050/FUL) and was refused permission for the same/similar reasons.
11. The landscaping scheme required to be implemented by virtue of planning permission 2011/0077/04 remained only partially implemented over the approximately eight years within which it was due. Although parts were complete, substantial gaps existed predominantly around the northern part of the site adjacent to the canal, Carlton Road and along northern field boundary.
12. As such, a Breach of Condition Notice (BCN) was issued, served by the County Council in May 2022, which required the implementation of the landscaping scheme. The notice required:

“Implement the landscaping during the next available planting season in accordance with the details supplied and approved pursuant to condition 5 of the planning permission. For the avoidance of doubt, this comprises those details shown on Plan TNA-413-01 dated March 2013 and Specification detailed in report TNA-414 dated March 2013. Any such planting which within

a period of 10 years of implementation of the landscaping dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species.”

13. Subsequently, the applicant sought to modify condition 5 of permission 2011/0077/04 to revise the landscaping scheme. This was approved on the basis that, as planting around the northern and eastern water storage areas were above prevailing ground level (i.e. at the water level in the canal), they could not be safely implemented without potential damage to banks. The landscaping scheme also made some revisions to planting within the site.
14. The BCN specified a date for compliance of 31 December 2022. This was largely complied with and subsequent monitoring by officers of the Council ensured full implementation. This was achieved prior to March 2023 (within the 2022/23 planting season). Much of the planting remains immature but is in good condition and is broadly considered to have secured compliance with the terms of the BCN. This notwithstanding, the BCN remains extant and planting remains to become fully established.
15. The landscaping scheme also indicated the retention of an area of hardstanding near the vehicle entrance to Carlton Road. This element of the scheme was not considered to fall within the ambit of conditions 5 or 6 of the permission and hence the requirement for this application.

### **Description of Proposal**

16. The application seeks to retain an area of hardstanding, presently formed of compacted gravel. The area of hardstanding has dimensions of approximately 20 by 26 metres and total area of 596 square metres.
17. The area of hardstanding is to be used as boat storage for canal boats prior to them being lowered into the water in the marina. This is estimated to occur a total of 1 to 5 times in any calendar year. The process involves an HGV entering the marina site, performing a turn within the site before entering the hardstand area in forward gear for removal of the boat. All turning manoeuvres are contained within the wider marina site away from the public highway.
18. The hardstand area is shown to be planted to all sites with a variety of landscaping including tree planting and hedgerow. This planting is already in place (albeit immature at present) in order to comply with the abovementioned conditions on the wider marina site and Breach of Condition Notice.

### **Planning Policy**

19. Hinckley and Bosworth Local Development Framework Core Strategy (adopted December 2009) – referred to as ‘the Core Strategy’
  - Policy 11: Key Rural Centres Stand Alone
  - Policy 23: Tourism Development
20. Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document (adopted July 2016) – referred to as the DPD’
  - DM4 Safeguarding the Countryside and Settlement Separation
  - DM6 Enhancement of Biodiversity and Geological Interest

- DM10 Development and Design
- DM17 Highways and Transportation
- DM24 - Cultural and Tourism Facilities

21. Market Bosworth Neighbourhood Plan 2014 – 2026

- Policy CE1 - Character and Environment

National Policy

*National Planning Policy Framework (NPPF)*

22. Paragraph 11 notes that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

23. Paragraph 84 notes planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

24. Paragraph 84 notes planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Consultations

25. **Hinckley & Bosworth Borough Council** – Raise objection to the scheme due to:

- Development of hardstanding in open countryside;
- Loss of biodiversity;

- Noise concerns .

26. **Market Bosworth Parish Council** – objects to the application:

- Lack of wildlife and habitat provision;
- Inconsistent with original landscaping scheme.

27. **Carlton Parish Council** - objects to this proposal on the grounds that:

- Area of hardstanding in open countryside is not well related to the existing Marina;
- Inconsistent with landscaping and wildlife provision.

28. **Highways Authority** – Acknowledge that due to the low level of proposed HGV movements it is unlikely that the proposed development will result in a severe impact on the existing highway network in accordance with Paragraphs 110 & 111 of the National Planning Policy Framework 2021.

29. **Leicestershire County Council Landscape** - no objection to the application and the proposals will not have an adverse landscape and visual impact on the surrounding area.

30. **Lead Local Flood Authority (Leicestershire County Council)** – no comments.

31. **Local Member – Mr. B. Harrison-Rushton CC** - has been notified of the application.

### **Publicity and Representations**

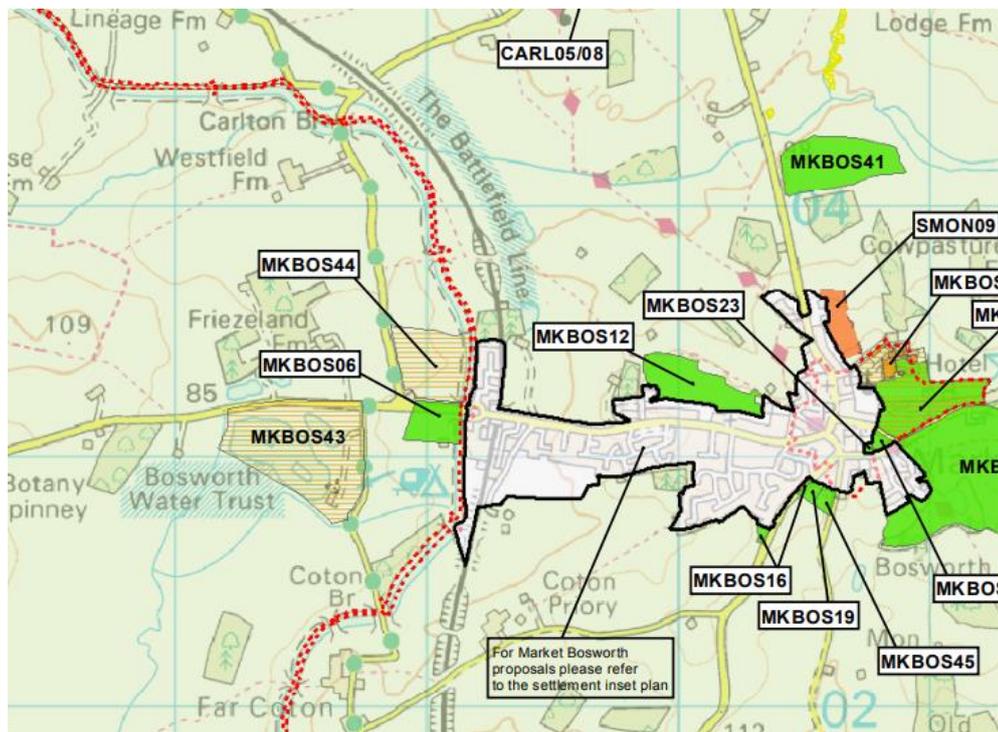
32. The application has been publicised by means of a site notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.

33. No third party representations were received in response to the consultation.

### **Assessment of Proposal**

#### **Planning Policy Assessment**

34. The application site is located to the west of Market Bosworth and is set outside the defined settlement boundary. The site is therefore within the Countryside but is also allocated as a Cultural and Tourism Facility as designation MKBOS44 under policy DM24 of the DPD as indicated in the extract below. Tourism development is further supported under policy 23 of the Core Strategy.



35. Development on such sites may be considered acceptable in principle subject to the provisions of policy DM4 of the DPD. However, policy DM4 makes no specific reference to ancillary development on tourist sites. The closest applicable policy element of DM4 relates to sport and recreation facilities is DM4(a) which notes:

“Development in the countryside will be considered sustainable where (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries.”

36. As noted, the site is allocated for cultural and tourism development and is set on an existing, authorised, marina site. The development proposed is for an ancillary facility to provide temporary boat storage prior to boats being placed into the marina/canal waterway. As noted, the site is within the open countryside but is also adjacent (in the context to the site allocation) to the existing settlement boundary.
37. Policy DM24 of the DPD provides no commentary on ancillary facilities to established cultural and tourist sites but notes that the “Council will seek to support the development of new cultural and tourism facilities across the borough and “will seek to resist the loss or change of use of cultural and tourism facilities.” Policy 23 of the Core Strategy further supports the provision of tourism facilities but also provides no commentary on the acceptability of ancillary development on established sites.
38. When reading policies DM4(a), DM24 and 23 as a collective expression of policy intent and being mindful of paragraph 11 of the NPPF; it is apparent that there is broad policy support for the establishment and development of such facilities and this must therefore, de facto, apply to the further development within such established sites where it meets the requirements of the policy. Notably that it:
- Is of a design and at a scale which is appropriate to minimise impact and assimilate well with the character of the surrounding area with acceptable landscaping (policy 23)

- Complements the tourism themes of the borough (policy 23) and
- The Borough Council will seek to support the development of new cultural and tourism facilities across the borough (policy DM24)

39. As such, the development is therefore regarded as acceptable in principle. It cannot be located in any other location as both vehicle and waterway access are required and would otherwise have to be relocated within the marina site (where the same constraints would apply) or within the open countryside outside the allocated site which may not be regarded as acceptable and in any case would arguably be unconnected with the marina.
40. Development proposals are still required to achieve compliance with the remaining policies of the development plan and detailed criteria of those policies specified in the above paragraphs and as further detailed below.

### Landscape and Visual Impact

41. The wider site comprises Bosworth Marina which provides canal boat berths for tourism moorings and short term occupation and is connected to the Ashby-de-la-Zouch Canal. The site was initially permitted in 2012 and built out in the following years. Landscaping of the site has only recently been completed following the County Council's service of a Breach of Condition Notice.
42. The Breach of Condition Notice requirements – the landscaping scheme – has recently been completed (subject to modification). The landscaping has been implemented in accordance with the approved scheme although is presently in a relatively immature state and will require a number of planting seasons to become established.
43. The landscaping includes tree planting on the western boundary with Carlton Road and hedge planting within the application site. The landscaping is expected to develop over the course of time and provide increased screening and better integration of the site into the surrounding countryside. As such, the present appearance of the site is not considered representative of the long-term appearance of the application site or wider marina. On this basis, although the hardstanding and marina are visible in short range views, mainly from Carlton Road, this will soften in time.
44. The comments of the Borough and Parish Councils are noted regarding prior non-compliances at the site and the late implementation of the landscaping scheme. This has now largely been resolved (subject to ongoing compliance) and should not be used to consider the merits of this proposal as any application should be judged on its own merits.
45. Further concerns regarding lighting and security fencing are not pertinent as the application does not include either and they may require a further planning approval where their acceptability could be considered at that time.
46. Landscaping is not proposed to be required by way of condition as this is already provided under the landscaping provisions for the wider site and Breach of Condition Notice. The proposal is not considered to override the terms of the BCN (excepting as it relates to the area of hardstanding only) and would not prejudice the continuing establishment of enhanced landscaping over the wider

site. The development is therefore considered to be in compliance with policies DM4 of the DPD and 23 of the Core Strategy.

### Ecology and Biodiversity

47. Reference has also been made by both Parish Council's in regard to the biodiversity of this area of land. In practice, this part of the initially approved landscaping scheme showed a few small trees (which have already been replaced elsewhere), no hedging (which is an addition to this part of the site) and that it would otherwise be amenity of grassland with negligible ecological value.
48. The provision of hardstanding as opposed to amenity grassland over this area of land is likely to be of marginally lower ecological value. However, when viewed in the context of the wider site and with the replacement planting that has been formed outside of the hardstanding area, may well represent a small enhancement in ecological value.
49. The proposal is therefore considered to be in accordance with policy DM6 of the DPD.

### Traffic, Access and Parking

50. The proposal comprises the use of a piece of presently unauthorised hardstanding and its continued operation as an area for canal boat storage. The applicant advises that this is likely to be used between one and five times per annum thus equating to a maximum of ten total (in/out) HGV movements over a year.
51. The Applicant has advised that HGVs will enter the site and then turn using the internal turning head further into the site before entering the area of hardstanding in a forward gear. Following unloading/loading the vehicle will reverse from the area of hardstanding back onto the internal road and this manoeuvre will be undertaken with Marina employees providing traffic management.
52. It has been advised that HGV movements will be booked in advance and that between 1-5 movements will occur each year. The Highway Authority notes the site is open to the public and that when HGV movements occur, particularly the reversing manoeuvre, access from the public highway may be restricted. Notwithstanding this, the Highway Authority is satisfied that the provision of traffic management operatives will enable traffic levels to be monitored so that a build up of waiting vehicles does not occur.
53. Conditions are proposed to restrict the use of the area of hardstanding to minimise its intensification of use for other purposes, including as an overflow car park or for any other purpose. These measures will ensure the development accords with policy DM17 of the DPD.

### Noise

54. The Borough Council has expressed concerns regarding noise from the site. However, being mindful of the frequency of use and general activity at the wider site, which is likely to only occur when canal boats are being sited or removed from the area, this is not considered to be significant. Moreover, the times of

operation and use of the site are already proposed to be controlled by way of condition which will assist in mitigating these concerns further to comply with policy DM10 of the DPD.

### Flood Risk

55. The application site is located within flood zone 1 and is therefore at the lowest probability of flooding. The LLFA have no comments to make and their standing advice on small scale developments applies.

### Other Material Considerations

56. No other material considerations have been identified that warrant a different recommendation.

### Conclusion

57. The application seeks permission for the retention of an area of hardstanding and its use for short term canal boat storage whilst the canal boat is being lowered into or lifted out of the water. This area of land is of a small size in the context of the marina and in conjunction with enhanced landscaping – which has already been secured through conditions 5 and 6 of planning permission 2011/0077/04 and the BCN – will ensure its visibility in the landscape and from a public vantage point will only lessen over the course of time. Conditions are imposed to ensure the development does not suffer from an intensification of use that could be detrimental to the amenity of the area. As such the application is recommended for approval subject to conditions.

### Statement of Positive and Proactive Engagement

58. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### Recommendation

1. PERMIT subject to the conditions set out in Appendix A.

### Officer to Contact

Nick Bowden (Tel: 0116 305 4701)  
E-Mail: [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

**Conditions**

1. Unless otherwise required pursuant to conditions of this permission, the development hereby permitted shall be carried out in accordance with the submitted application (as amended), documents and recommendations of reports, and the following plans:
  - a) Site location plan, undated by Andrew Large Surveyors @ 1:1,250
  - b) Site layout plan, undated by Andrew Large Surveyors @ 1:200
  - c) Planning Statement dated 14 March 2023

*Reason: For the avoidance of doubt as to the development that is permitted.*

2. The hardstanding hereby permitted shall be used for the purposes of boat storage only in connection with the operation of the site as a marina.

*Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.*

3. No individual boat shall be stored on the area of hardstanding for a period in excess of fourteen calendar days. No boats shall be stored on the area of hardstanding for any more than 70 calendar days in any year.

*Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.*

4. The area of hardstanding shall not be used for the parking of vehicles excepting insofar as it relates to temporary parking in connection with the movement of canal boats.

*Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.*

5. Notwithstanding the provisions of S55 of the Town and Country Planning Act 1990 (as amended), no mobile lighting structures shall be sited, placed or operated on the site at any time.

*Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.*



## **DEVELOPMENT CONTROL AND REGULATORY BOARD**

**22 JUNE 2023**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **LEICESTERSHIRE COUNTY COUNCIL** **COUNTRY PARKS BYELAWS**

##### **Purpose of Report**

1. To update the committee on the public consultation on the byelaws and proposed amendments as a result of consultation.
2. To seek approval to proceed to the County Council meeting on 5 July for provisional agreement of the byelaws for each of the Country Parks and other informal rural recreation areas in the County managed by the County Council, subject to advertisement and confirmation from the Secretary of State.

##### **Background**

3. All Country Parks and recreational sites managed by the Country Parks Service are covered by Byelaws introduced in 2003, with the exception of the Brampton Valley Way, Market Harborough (adopted in 1990). No changes will be made to the Brampton Valley Way Byelaws.
3. A Byelaw is a local law, which is made by a local authority. If there is already legislation covering a matter causing concern, then a Byelaw is not normally considered suitable. Since Byelaws create criminal offences, they must be confirmed by the Secretary of State before they can come into effect. These Byelaws will be made under Section 41 of the Countryside Act 1968, following procedure laid down in the Local Government Act 1972. The delegated function of the Board includes the consideration of Byelaws. By virtue of Article 4 of the County Council's Constitution the final decision will be made by the County Council.
4. In a meeting of the council on 30th September 2020, a motion was passed to:  
  
*“Require officers to introduce a condition of contract relating to outdoor events and organised functions on land or property owned and/or controlled by the County Council to prohibit the release of any sky lantern or helium balloons regardless of purpose.”*

5. At the meeting on 13<sup>th</sup> October 2022 the Development Control and Regulatory Board considered an initial draft of proposed revised byelaws for Country Parks managed by the County Council. At that meeting, the Director of Corporate Resources was authorised to:
  - a. Commence consultation on amending the current byelaws for all country parks;
  - b. Consult informally with DLUHC, DEFRA, Natural England and other statutory bodies.
6. Furthermore, the Board made various comments regarding the wording of the proposed byelaws, particularly in relation to electric scooters and music and singing.

### **Results of the Consultation**

7. A public consultation on the byelaws ran from 1<sup>st</sup> December 2022 to 23<sup>rd</sup> February 2023, hosted on the County Council's website. It was also advertised on social media and on posters around parks. Separately, a comprehensive list of stakeholder organisations was contacted, and they were invited to give the comments.
8. Of the 71 responses received 78% were from Leicestershire and most were visitors to Beacon Hill Country Park.
9. 79% of respondents either tended to agree or strongly agreed with the new revised byelaws. The main comments related to the proposal to permit rangers to introduce areas where dogs must be on a lead or dogs would be prohibited entirely. On this, respondents were split almost exactly 50/50, with comments ranging from "Dogs on leads at all times please" to "I oppose further imposition of dogs on leads policy". There was little disagreement with the proposal to prohibit barbecues on parks. There was a proposal to include fungi in the list of protected wildlife, which has been accepted, along with a proposal to include protection for geology alongside flora and fauna. Finally, there were comments around the clause on musical entertainment and this has been modified in the current draft.
10. In October 2022 the Board commented that they felt that the byelaws around electric scooters should be further strengthened. However, officers do not believe that this is necessary as the byelaws prohibit any "mechanically propelled vehicle". They believe that specifying every possible vehicle would make the byelaws unwieldy and also require frequent updating. The Board also felt that the byelaw on Musical Entertainment was too severe, and this has been modified in the current draft.
11. The Environment and Climate Change Overview and Scrutiny Committee was consulted on these byelaws in their meeting on 19 January 2023 and they welcomed the proposal to update the byelaws.

12. DEFRA was approached for comment on the proposed byelaws and have asked that we send them a marked-up version with the proposed revisions post-consultation.
13. The County Council received no response from Natural England.
14. The revised byelaws are appended as Appendix A, with changes clearly indicated.
15. The Director of Law and Governance has been consulted on this report and the Byelaws proposed.
16. Subject to agreement of the Board, the byelaws will be given provisional agreement by full council, prior to advertisement and then submission of draft byelaws to the Secretary of State for confirmation.

### **Equalities Implications**

17. None that can be quantified at this time.

### **Human Rights Implications**

18. None that can be quantified at this time.

### **Recommendations**

19. That the County Council be recommended to authorise the Director of Law and Governance:
  - (a) to make and seal Byelaws as appropriate for each of the Country Parks listed in accordance with the details set out in Appendix A to this report and to revoke all previous byelaws on those sites; and
  - (b) to advertise the making of and to seek confirmation by the Secretary of State of these Byelaws.

### **Reason for Recommendations**

20. To provide a more effective means of dealing with day-to-day management issues and problems experienced on Country Parks and other recreational sites.

### **Circulation under Local Issues Alert Procedure**

21. none

### **Officer to Contact**

Richard Hunt

Head of Catering Hospitality and Country Parks  
richard.hunt@leics.gov.uk

### **Background Papers**

Report to Development Control and Regulatory Board on 13 October 2022:  
<https://politics.leics.gov.uk/documents/s171623/Byelaws%20-%20DCRB%20Report%20October%202022%20Final%20draft.pdf>

### **List of Appendices**

- A Proposed byelaws
- B Schedule of Country Parks

**COUNTRY PARKS**

These Byelaws are made by the Leicestershire County Council under Section 41 of the Countryside Act 1968, with respect to those areas of land listed in Appendix B and any new areas to which the public have access.

**Interpretation**

1. In these byelaws:

“the Council” means Leicestershire County Council

“the land” means those Country Parks to which the public have access.

“adapted vehicle” means a vehicle, whether mechanically propelled or not

- (a) the unladen weight of which does not exceed 150 kilograms,
- (b) the width of which does not exceed 0.85 metres, and
- (c) which has been constructed or adapted for use for the carriage of a person suffering from a disability and used solely by such a person.

“motorcycle” means

- (a) a mechanically propelled vehicle, not being an adapted vehicle, with fewer than four wheels and the weight of which unladen does not exceed 410 kilograms.
- (b) an electrically powered motor cycles (excluding an electrically assisted pedal cycle);

“cycle” means a bicycle, a tricycle, or an electrically assisted pedal cycle

“electrically assisted pedal cycle” means a cycle that has pedals that can be used to propel it and an electric motor with a maximum power output of 250 watts that should not be able to propel the cycle at a speed greater than 15.5mph and for which no driving licence is required.

“motor vehicle” means a mechanically propelled vehicle, not being an adapted vehicle or motor cycle, intended or adapted for use on roads;

“trailer” means a vehicle drawn by a motor vehicle, and includes a caravan.

**Vehicles**

2. (1) No person shall, without reasonable excuse, ride, drive or abandon a motor cycle, motor vehicle or any other mechanically propelled vehicle (other than a cycle, including electrically assisted pedal cycle) on the land, or bring or cause to be brought on to the land a motor cycle, motor vehicle, trailer or any other mechanically propelled vehicle (other than a cycle), except on any part of the land where there is a right of way for that class of vehicle.
  - (2) If the Council has set apart a space on the land for use by vehicles of any class, this byelaw shall not prevent the riding or driving of those vehicles in the space so set apart or on a route, indicated by signs placed in conspicuous positions, between it and the entrance to the land.
  - (3) This byelaw shall not extend to adapted vehicles
  - (4) Motor vehicles shall only be parked or left in designated parking areas.
  - (4) This byelaw shall not apply to emergency vehicles accessing the land in connection with the rendering of assistance to patrons.

**Cycling**

3. (1) No person shall, without reasonable excuse, ride a cycle, except in any part of the land where there is a designated right of way for cycles, or along such routes as may be fixed by the Council and indicated by signs placed in conspicuous positions on the land.

**Climbing**

4. No person shall, without reasonable excuse, climb any wall or fence on or enclosing the land, or any tree, or any barrier, railing, post or other structure.

**Removal of Structures**

5. No person shall, without reasonable excuse, remove from or displace on the land any barrier, railing, post or seat, or any part of any structure or ornament, or any implement provided for use in the laying out or maintenance of the land.

**Camping**

6. No person shall on the land, without the consent of the Council, erect a tent or use any vehicle, including a caravan, or any other structure for the purpose of camping, except on any area which may be set apart and indicated by notice as a place where camping is permitted.

**Fires**

7. No person shall on the land:
  - (1) light a fire, or

- (2) place, throw or drop a lighted match or any other thing likely to cause a fire, or
- (3) release a lighted sky lantern into the atmosphere, or
- (4) light a camping stove or cooker or barbecue, without the consent of the Council.
- (5) launch fireworks or use explosives.

In this byelaw:

“sky lantern” means any unmanned device which relies on an open flame or other heat source to heat air within it with the intention of causing it to lift into the atmosphere.

### **Trading**

- 8. No person shall on the land, without the consent of the Council, sell, or offer or expose for sale, or let to hire, or offer or expose for letting to hire, any commodity or article.

### **Protection of Wildlife**

- 9. (1) No person shall without the consent of the Council, intentionally kill, injure, take or disturb any animal, ~~plant or fungi, fish or birds (or remove their eggs)~~, or engage in hunting, shooting or fishing, or the setting of traps or nets, or the laying of snares.
- (2) This byelaw shall not prohibit any fishing which may be authorised by the Council.

### **Protection of Geodiversity**

- 10. ~~No person shall without the consent of the Council, intentionally or recklessly destroy, damage, or remove any geological or physiographical feature.~~

### **Grazing**

- 11. No person shall, without the consent of the Council, turn out or permit any animal to graze on the land.

### **Gates**

- 12. Where the Council indicates by a notice conspicuously exhibited on or alongside any gate on the land that leaving that gate open is prohibited, no person having opened that gate, or caused it to be opened, shall leave it open.

### **Watercourses**

- 13. No person shall knowingly cause or permit the flow of any drain or watercourse on the land to be obstructed or diverted, or open, shut or otherwise work or operate any sluice or similar apparatus on the land. Provided that nothing done

by any person acting under statutory powers shall constitute an offence under this Byelaw.

### **Pollution of Waterways**

14. No person shall intentionally, carelessly or negligently foul or pollute any waterway comprised in the land.

### **Bathing**

15. No person shall, without reasonable excuse, bathe or swim in any waterway comprised in the land, except in an area where a notice exhibited by the Council permits bathing and swimming.

### **Boats**

16. No person shall, without the consent of the Council, place on any lake or other waterway comprised in the land, any boat other than a model yacht or toy boat. ( including a power- driven model yacht or toy boat) PROVIDED that no person shall operate a power-driven model yacht or toy boat in such a manner as to cause danger to individuals or damage to the flora and fauna of the park, or give reasonable grounds for annoyance to any other person.

### **Horses (Dangerous Riding)**

17. No person shall on the land intentionally or negligently ride a horse in such a manner as to cause danger or annoyance to any other person using the land.

### **Horses (Only in Designated Areas)**

18. Where any part of the land has, by notices placed in conspicuous positions on the land, been set apart by the Council as an area where horse-riding is permitted, no person shall, without the consent of the Council, ride a horse on any other part of the land.

### **Dogs Prohibited from the Ground(s)**

19. (1) No person (other than a registered blind person) in charge of a dog shall, without reasonable excuse, permit the dog to enter or remain in any of the dog prohibited area(s).
- (2) An officer of the Council or any constable may require a person in charge of a dog which has entered any of the dog prohibited areas to remove the dog therefrom.
- (3) In this Byelaw the dog prohibited area shall mean that part of the land which has by notices placed in conspicuous positions on the land been set apart by the Council as an area for children's play area where dogs are not permitted.

### **Dogs on Leads**

20. (1) No person in charge of a dog shall, without reasonable excuse, permit the dog to enter or remain in any of the dogs on leads area(s) unless the dog is held on a lead and is restrained from behaviour giving reasonable grounds for annoyance.
- (2) In this Byelaw the dogs on leads area shall mean that part of the land which has by notices placed in conspicuous positions on the land, been designated/set apart by the Council as an area where dogs must be on a lead.
- (3) Any person in charge of a dog shall, before departing from the location, remove up any dog mess left by the concerned animal on the Land covered by this byelaw.

### **Dogs on Leads by Direction**

21. (1) Every person in charge of a dog shall, as far as reasonably practicable comply with a direction given by any officer of the Council or constable to keep the dog on a lead and restrained from behaviour likely to cause annoyance or disturbance in each of the grounds.
- (2) A direction under paragraph (1) above may only be given if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any person in any of the grounds or the worrying or disturbance of any animal or bird.

### **Model cars**

22. No person shall operate a power-driven model car in such a manner as to cause danger to individuals or the flora and fauna of the park, or give reasonable grounds for annoyance to any other person.

### **Model aircraft**

23. No person shall, without the consent of the Council, cause any power-driven model aircraft or drone to:
- (a) take off or otherwise be released for flight or control the flight of such an aircraft in the ground; or
  - (b) land in the ground without reasonable excuse.

### **Metal Detectors**

24. No person shall use any device designed or adapted for detecting or locating any metal or mineral in the ground without the consent of the Council.

### **Obstruction**

25. No person shall on the land:
- (a) intentionally obstruct any officer of the Council in the proper execution of his or her duties;
  - (b) intentionally obstruct any person carrying out an act which is necessary to the proper execution of any contract with the Council; or
  - (c) intentionally obstruct any other person in the proper use of the land, or behave so as to give reasonable grounds for annoyance to other persons on the land.

### **Flyers**

26. No person shall without prior written consent of the Council, place or affix any posters, notice, signs, printed matter or advertising on the land covered by this byelaw.

### **Graffiti**

27. No person shall without prior written consent of the Council, shall, paint, tag, spray on or deface any part of the land covered by this byelaw or any structure thereon.

### **Musical Entertainment**

28. No person shall play **any musical instrument or sing** or give any entertainment on the Land covered by this Bye Law **that may cause annoyance to another person or disturb wildlife**, except with the consent of the Council or in pursuance of an agreement with the Council.

### **Fire-Arms**

29. No persons other than police or authorised Council staff shall carry, use or display fire arms or other offensive weapons on the land.

### **Overnight Parking**

30. **No person shall, without the consent of the Council, leave any** vehicle or cause or permit any vehicle to be left on the land between the hours of 12 midnight and 6 a.m.

### **Savings**

31. (1) An act necessary to the proper execution of his duty on the land by an officer of the Council, or any act which is necessary to the proper execution of any contract with the Council, shall not be an offence under these byelaws.
- (2) Nothing in or done under any of the provisions of these byelaws shall in any respect prejudice or injuriously affect any public right of way through the land, or the rights of any person acting legally by virtue of some estate, right or interest in, over or affecting the land or any part thereof.

### **Penalty**

32. Any person offending against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Revocation**

33. The byelaws made by Leicestershire County Council on xxxx 2003 are hereby revoked.

**SCHEDULE OF COUNTRY PARKS**

1. Beacon Hill Country Park, Woodhouse Eaves, Nr. Loughborough  
73 ha (180 acres) of undulated heathland, bracken, woods and rhododendron labyrinth. Toposcope on summit affording superb views. Remains of Bronze Age settlement. Native Tree Collection. Café.
2. Burrough Hill Country Park, Burrough on the Hill, Nr. Melton Mowbray  
35 ha (86 acres) site of Iron Age Hill Fort. Well preserved ramparts. Toposcope with fine views. Waymarked Trail. Mixed Woodland.
3. Market Bosworth Country Park  
35 ha (87 acres) rural Parkland, with arboretum, children's playground and lake.
5. Bosworth Battlefield Visitor Centre and Country Park, Sutton Cheney, Nr. Market Bosworth, Leicestershire  
Historic site of Battle of Bosworth 1485 between Richard III and Henry VII. Visitor Centre including interpretation of Battle, exhibitions, film theatre, book and gift shops, Tithe Barn cafe and illustrated Battle Trail. Series of Special Event Days including Battle Re-enactment.
6. Jubilee Wood, Breakback Road, Nr. Loughborough  
Mixed woodland with rocky outcrops and walks.
7. Watermead Country Park, Wanlip Road, Nr. Syston, Leicestershire  
101 ha (250 acres) Water Park, with lakes, woodland walks, footpaths, picnic area, sail boarding, sailing, fishing and cycleway. Nature reserve with bird hides. Access to River Soar and Grand Union Canal.
8. Broombriggs Farm and Windmill Hill, Woodhouse Eaves, Nr. Loughborough  
Typical Charnwood Forest Farm of 53 ha (130 acres) with paths for walkers and riders. Trail with illustrated Boards. Windmill Hill - adjoining woodland area with remains of former Windmill.

9. Sheet Hedges Wood, Newtown Linford Lane, Newton Linford

30 ha (75 acres) mixed wood and farmland with footpaths and trails. Important site for wildlife.

16. Donisthorpe Woodland Park

30 ha (75 acres) of reclaimed colliery site planted with 20 ha of mixed woodland. A 2.5 km surfaced track and grass rides suitable for walkers, cyclists and horseriders and three picnic areas.

17. Salterford Valley and Donisthorpe New Wood including Cockspur Bridge access

7.0 ha of broadleaf woodland, grassland and open water with surfaced paths.

18. Sarah's Wood

10.0 ha of mixed woodland. 1.5 km of tarmac surfaced paths suitable for wheelchair use. Car park and picnic area.

The Ashby Canal basin and lock are on the site..

19. Ashby Woulds Heritage Trail

6 km of reclaimed railway line from Measham to Spring Cottage, Ashby Woulds. The surfaced path is suitable for walkers, cyclists and horse riders. The trail provides access to Donisthorpe Woodland Park, Conkers and Moira Furnace.

20. Oakthorpe Colliery

5.0 ha of reclaimed colliery with mature woodland and 1.0 ha of new planting. The site adjoins the Woodland Trust Willesley Wood and has a car park and has a hard surfaced track and picnic benches. The line of the Ashby Canal also crosses the site.

21. Bagworth Heath Wood

75.5 ha of reclaimed colliery with woodland fishing lake and open grass areas. A car park and a children's story telling area have been provided.

23. Lount Nature Reserve

10.0 ha site on reclaimed colliery and tip. Regenerated oak and birch woodland with grass land and natural ponds. Managed as a nature reserve by local volunteers alongside rangers. Car park and access tracks provided.

24. A511 sites Coalville

These sites consist of unimproved grassland, wet areas and ponds. Mixed broadleaved trees have been planted and stone surfaced footpaths constructed.

25. Snibston Colliery Park

Created from a former industrial coal mining site in the National Forest. 45 ha (110 acres) of Leicestershire habitats including a mini arboretum, nature trail and popular coarse fishery. Café alongside Century Theatre, 4km of mountain bike trail. Childrens play area and pump track.