



**DEVELOPMENT CONTROL AND REGULATORY BOARD**

**9 SEPTEMBER 2021**

**REPORT OF THE CHIEF EXECUTIVE**

**COUNTY MATTER**

**PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2020/1154/06 (2020/CM/0044/LCC) 15 September 2020
- PROPOSAL:** Inert-waste recycling facility with associated works, alongside existing operations
- LOCATION:** Plot B, Old Dalby Business Park, Station Road, Old Dalby, Melton Mowbray, LE14 3NJ
- APPLICANT:** Mr Shane Clarke
- MAIN ISSUES:** Principle of development  
Location of development/sustainability  
Noise, dust and other amenity considerations  
Transport and access
- RECOMMENDATION:** Refuse permission

**Circulation Under Local Issues Alert Procedure**

Mr. J.T. Orson CC

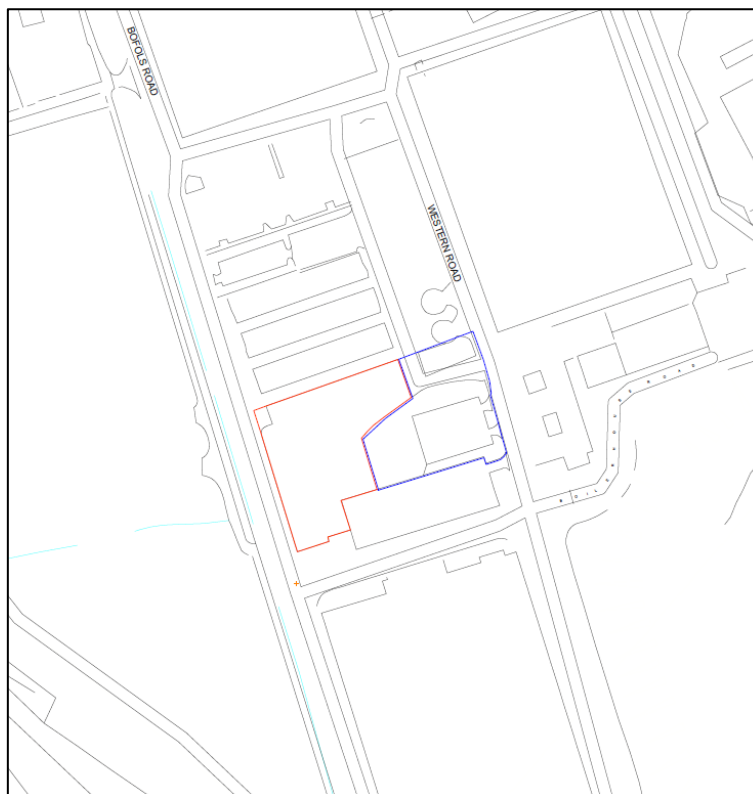
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## **PART B – MAIN REPORT**

### **The Site and Surroundings**

1. The application site is located within the Old Dalby Business Park. This comprises a mixture of industrial and commercial uses on a mix of open storage sites, older industrial, brick built warehouses and more modern concrete and steel structures. Uses on the business park include industrial uses (Use Class B2), warehousing (B8), motor vehicle related, and other sui generis uses. The industrial estate is set to the east of Old Dalby village itself on the opposing side of the railway line. The site is irregularly shaped with an area of 0.24 hectares.
2. There are no existing residential properties in close proximity to the application site, with the nearest being slightly over 200 metres to the north. An extant, but unimplemented, outline planning permission exists for the development of 72 houses which approaches the north east corner of the application site.
3. The site itself is largely open and laid to hardstanding and ruderal vegetation. It has limited features of note and is bounded by a mix of concrete block walling, metal fencing with low grade vegetation growing amidst this. The site is presently in use as a concrete road block storage and hire facility. This is a sui generis use with similar characteristics to B8 storage and distribution.
4. The site is allocated as a Key Employment Site under the Melton Local Plan. An ancient woodland exists some 600 metres to the south west and local wildlife site approximately 1Km to the south. The site is located within the Flood Zone 1.



## **Planning History**

5. There is no recent planning history pertaining to the application site. The wider commercial/industrial park was established in the 1980s and has a determination under S302 of the Act which provides immunity from enforcement in respect of war-time breaches of planning control by the Crown.
6. A recent planning permission for 72 houses exists towards the north and west of the application site. This was granted permission in 2018 following an allocation made in the Old Dalby Neighbourhood Plan.

## **Description of Proposal**

7. The application proposes the change of use of part of the site used for concrete barrier storage and hire facility to a 25,000 tonnes per annum inert waste recycling facility for construction, demolition and excavation (CD&E) waste.
8. The application would effectively divide the two uses on the overall site (illustrated by the red and blue lines) although would allow for an element of mixed use as access would be required to the concrete barrier storage business via the waste recycling station. Conversely the waste recycling station would rely on parking and welfare facilities from the concrete barrier site.
9. Within the site, operational works would comprise the formation of two concrete walled bays (14 by 6 metres and 3 metres high) to store inert and processed waste, improvement of site surface (where required) to provide a concrete base and installation of wheel wash and truck wash.
10. Access is taken from Western Road (west side) via an existing access and leads to the waste recycling yard with concrete barrier use beyond. The use is expected to generate four HGV movements per day (two in, two out) in 30-32 tonne six wheel rigid body trucks delivering, on average, around 96 tonnes per day to/from the site. These would be routed east/north-bound upon exit from the Business Park towards the A606.
11. The hours of use for the premises would be 8am to 6pm Monday to Friday and 8am to midday Saturday.
12. The applicant's supporting statement includes an assessment of available CD&E waste recycling stations in the local area in addition to an assessment of alternative sites for a use such as this. It is also supported by noise assessment, dust assessment and procedure notes on how to deal with differing types of waste.

## **Planning Policy**

### **The Development Plan**

*Leicestershire Minerals and Waste Local Plan (adopted September 2019)*

- Policy W1: Waste Management Capacity
- Policy W4: Non-strategic Waste Facilities
- Policy W5: Locating Waste Facilities
- Policy DM1: Sustainable development
- Policy DM2: Local Environment and Community Protection
- Policy DM9: Transportation by Road

*Melton Local Plan (adopted October 2018)*

- Policy D1 – Raising the Standard of Design
- Policy EC2 – Employment Growth in the Rural Area (Outside Melton Mowbray)
- Policy EC3 – Existing Employment Sites

*Old Dalby Neighbourhood Plan (adopted 2018)*

- Policy BE1: Business Development

National Policy

*National Planning Policy Framework (NPPF)*

13. The revised National Planning Policy Framework (NPPF) was published 20 July 2021 and sets out the Government's planning policies for England. At the heart of the NPPF is a presumption in favour of sustainable development, namely the economic, social and environmental roles, and the need to balance economic growth with the protection and enhancement of the environment.
14. Paragraph 2 states that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
15. Paragraph 174 advises that planning decisions should contribute to and enhance the natural and local environment by, among other criteria, e) 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.
16. Paragraph 188 states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

*National Planning Policy for Waste (NPPW)*

17. The National Planning Policy for Waste 2014 (NPPW) document sets out detailed waste planning policies relating to the provision of waste local plans and

for the determination of planning applications. In determining planning applications, waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

### **Consultations**

18. **Melton Borough Council** – No objections.
19. **Nether Broughton and Old Dalby Parish Council** – Object.
20. The site is currently used for storage and distribution (class B8) and proposes a change of use to waste management, a sui generis use and hence the application has been submitted to Leicestershire County Council (LCC) rather than Melton Borough Council. The recently adopted Melton Local Plan supports the industrial park at Old Dalby (on which the application site is located) but policy EC3 of the Melton Local Plan seeks to protect the use of the industrial park for classes B1 (now class E), B2 and B8 and outlines clear criteria for any change of use. No clear case to satisfy these conditions is presented by the applicant.
21. The Parish Council maintains that the proximity of the proposed waste management site to the already approved housing development is totally unacceptable and in itself a sufficient reason why the application cannot be supported.
22. Waste management facilities quite correctly are considered separately from other industrial activities in planning due to their potential for unique impacts on the environment and local communities.
23. The Neighbourhood Plan also seeks to protect important views and again, waste management policies seek to do the same (policy DM5). The original plans clearly show that 4m high block walls were proposed and the addendum statement suggests that lowering the wall height to 3 metres will be sufficient mitigation.
24. The extremely close proximity to an approved housing site is in itself sufficient for refusal of planning permission. Furthermore, the absence of another site locally which can accommodate both the storage and distribution activities of APC Civils Ltd alongside the proposed waste management activities is not in itself an overriding reason why planning policies governing activities on the Old Dalby Business Park can be set aside. Planning policies are in place to guide developers on what is acceptable for a location and to protect the wider community from inappropriate activities and environmental harm.
25. **Environment Agency** – No objection.

26. Note, the applicant will need to apply for environmental permits.
27. **Lead Local Flood Authority** – No objection.
28. The application site is greenfield totalling 0.2ha in size. The site is within Flood Zone 1 (low risk of fluvial flooding) and at low risk of surface water flooding. The site is existing hardstanding with an existing surface water drainage system. As such the current proposals are unlikely to have any impact on the surface water flood risk. Leicestershire County Council as the LLFA advises the LPA that the proposed development does not have any impact on surface water drainage.
29. **Highways Authority** – No objection, subject to conditions.
30. The Local Highway Authority Advice (LHA) is that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.
31. There is no new or amended site access proposed as part of this development. The LHA considers the existing access arrangements off Old Dalby Lane which serve Old Dalby Business Park suitable to accommodate the increase in anticipated traffic movements.
32. The LHA has reviewed the trip generation information which is contained within the submitted AC Environmental Waste Development document dated March 2020. It is understood the daily traffic movements directly associated with the waste recycling facility will be 2 six wheel HIAB vehicles (Lorry with mounted crane) and the average daily two way daily movements will result in a total of 4 movements.
33. A wheeled loader and crusher will be brought onto site once per month in order to carry out the process of crushing the inert material. The anticipated movements associated with the proposed development will not lead to a material impact on the public highway, therefore the LHA is satisfied there is no further trip generation assessment required.
34. **Natural England** – No objection.
35. **LCC Ecology** – No objection.
36. The development is on existing hardstanding which has low ecological value and is not suitable habitat for protected species.
37. **LCC Landscape** – No comments to make.
38. **Network Rail** – No objection.
39. Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and

delay to rail users and operators. In this instance, the site is near to the railway bridge on Station Road which has a height restriction of 13' 9" which may be a problem if large haulage vehicles associated with site operations are to be routed under this structure. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

### **Publicity and Representations**

40. The application has been publicised by means of two site notices, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.
41. One letter of objection was received following the second round of consultation. The letter comments on the following issues:
- a. Concern regarding the proximity of the site to a site with an extant planning permission for residential use;
  - b. Impact upon these new residents from dust, noise and disturbance;
  - c. The existing site does not appear to have been authorised;
  - d. Not satisfied with applicant's consideration of alternative sites.
42. The issues raised are considered below.

### **Assessment of Proposal**

#### **Planning Policy Assessment**

43. The application site is located on a Key Employment Site as defined under the Melton Local Plan. This allocation allows for uses within classes B1 (now class E), B2 and B8. It states that proposals for non B-class employment uses on employment sites will be allowed where they would support the effective operation of the site. The development would enable the more efficient use of under-utilised existing brownfield land. Furthermore, it is a form of development that is typically seen in an industrial context where the adverse impacts are often easier to absorb.
44. The existing use of the site is as a storage and hire facility (where items from the site are stored and distributed from the site before the same items are returned; thus distinguishing it from B8 storage and distribution). The current use therefore does not fall neatly into any particular use class. The proposed use of the premises for waste transfer purposes also doesn't fall within any particular use class and is therefore a different type of non-classified use (typically described as sui generis). Employment policies of the Melton Local Plan identify the site as being acceptable for commercial use and therefore whilst neither the existing or proposed uses fall within the identified use classes, they remain closely similar in nature and function.

45. The development does not accord with the provisions of policy W4 of the LMWLP as it is not in a broad location for a waste facility, nor is it within close proximity of Melton Mowbray (the closest urban area) or within a major growth area. The application seeks to demonstrate an exception to policy W4 under criterion (d) of that policy insofar as “facilities that require a more dispersed location to provide a clear link between the proposed location and the waste managed which would result in transport, operational and environmental benefits subject to the principles set out in Policy W5. Such a proposal must demonstrate there is an overriding need for the development and that this cannot be met within the urban areas.”
46. There is no conflict with policy W5 in that it is on previously developed, existing or planned industrial/employment land.

#### Location and demonstrated need

47. As mentioned above, the site does not accord with the provision of policy W4. This policy requires new waste transfer facilities to be located in either:
- (i) the Broad Locations for Strategic Waste Facilities, that is, in or close to the urban areas of Loughborough/Shepshed, Hinckley/Burbage and Coalville and close to the urban area of Leicester;
  - (ii) in or close to the main urban areas of Melton Mowbray and Market Harborough; and
  - (iii) within major growth areas.
48. The site is not in a broad location for waste facilities, nor within a major growth area.
49. The nearest defined urban area to the site is Melton Mowbray. Melton Mowbray is approximately 5 miles as the crow flies, or 7 miles driving distance from the application site. “Close to the main urban areas” is not defined in the LMWLP, however having regard to the general distance for the loosely mapped broad location for waste facilities, this is generally around 1-4 miles around the boundaries of larger urban areas. In this context, the site cannot be regarded as being close to Melton Mowbray.
50. The applicant has submitted a supporting statement which assess:
- a. The availability of other CD&E waste recycling stations in the area
  - b. The availability of other suitable sites in the area which do comply with policy W4 (i.e. within close proximity of Melton Mowbray)
51. The area of search selected by the applicant, being confined to Melton Mowbray, is considered appropriate in this context as it is the closest urban area to the site in this instance.
52. The applicant’s assessment of other waste facilities in the area includes a total of four premises. Two of these are located in Melton Mowbray and neither deal with CD&E waste. Two are located further afield (9+ miles). Of these, one deals with



mine waste on an active mineral extraction site. The other is located in very close proximity to the application site. This operation is similar to the applicant's proposal insofar as it deals with a type of CD&E waste but only operates with soils. The applicant's proposal is for the processing of aggregate.

53. On this basis it can be concluded that there are no other CD&E and waste recycling facilities in existence at present in the general Melton Mowbray area and none in closer proximity to Melton Mowbray.
54. In terms of the location of this proposed waste recycling facility, the applicant has identified a total of 12 available commercial/industrial sites within Melton Mowbray that would likely accord with the provisions of policy W4. Each of the sites have been assessed by the applicant and rejected for various reasons. All the sites have warehouse buildings on them and whilst this does not preclude this type of waste recycling operation, they need to be of sufficient size in terms of height of ceiling and entrance doors and of adequate internal floorspace. This is to accommodate 30-32 tonne trucks when tipping and other machinery including loaders, crushers and screeners plus manoeuvring space, together with a reasonably sized external yard.
55. Other reasons have been provided why alternative sites are not suitable, including:
  - a. Units still under construction;
  - b. Other use class planning restrictions;
  - c. Premises too large and uneconomic.
56. This however does not overcome the issue of the location of the site which remains fundamentally outside the broad location for waste facilities. It remains in a remote location and will inevitably require longer journeys in order to ensure a supply and distribution network for waste and recycled products.
57. The applicant's supporting statement identifies that waste will be sourced from multiple locations across a wider area including Loughborough, Leicester and Nottingham with these urban areas being located 11.4, 15.9 and 15.7 miles respectively (distances provided by applicant). Round trips to these locations may therefore be on or around 30 miles, generating a noteworthy carbon impact if replicated over the 25,000 tonnes per annum envisioned for this site. This is of particular note given that transportation of material accounts for a significant proportion of the carbon impact from waste operations.
58. The objective of policies W4 and W5 is to ensure that new waste transfer facilities are located within urban areas on recycled (brownfield) land in order to ensure a sustainable pattern of development and avoiding dispersed locations.
59. Therefore, notwithstanding the limited availability of suitable waste transfer location presently available in Melton Mowbray, the remote location of this site is not considered to justify its dispersed location away from major population centres and the principal sources of CD&E waste material. This is of particular note given that the applicant has identified more distant towns and cities as

being the source of waste material and destination for processed material. These other urban locations could be better served by existing or potential waste processing facilities within those areas and the manifestation of a dispersed waste transfer facility in this location would undermine the proximity benefits of keeping such facilities within, or near to, the sources of wastes. Accordingly, it is not considered that a satisfactory case has been made to justify this clear policy breach.

#### Supply of CD&E aggregates

60. The supporting text to policy W1 identifies that Leicestershire has sufficient capacity to deal with its CD&E wastes over the plan period. Recent and pending approvals by the County Council would further suggest that there is an increased capacity for CD&E waste recovery within the County beyond that identified in the LMWLP. On this basis, there is therefore no justification for this development. Indeed, the availability of sufficient sites to accommodate CD&E recovery within Leicestershire means that the waste planning authority does not need to consider less desirable sites in order to fulfil its requirements to accommodate this type of waste.

#### Design, character and appearance

61. No new buildings are proposed in connection with the use which largely re-uses an existing area of open hardstanding. The site is set amidst existing employment of varying nature. As an operational employment area, the local character is not of a high visual amenity value but nevertheless undertakes an important economic function. The proposed development would not fundamentally alter this character. The overall allocated employment site is fairly well screened by existing trees and hedge along the boundaries in this general area and would not be readily visible in the wider context.

#### Ecology and Biodiversity

62. The site is located on an area which is already laid to hardstanding with only minimal ruderal vegetation growth around the site edges and through cracks in broken concrete. The proposed development would therefore have negligible ecological implications, as noted by the Council's ecologist.
63. There are no trees or any other vegetation of note on the application site, nor it is in close proximity to any areas of high ecological value with the nearest being in excess of 500 metres away.

#### Traffic, Access and Parking

64. The site is located on an existing and well-established Business Park which is allocated as a key employment site in the Melton Local Plan. As noted by the Highway Authority, the main access from the Business Park to the public highway is of a good standard and can accommodate additional movements. The access from the site itself to the internal road network is existing and sufficient for the traffic generated.
65. The proposed scheme would result in an increase of four HGV movements per day (two in, two out). Estimated to be approximately 22 per week (assuming 50% movements on Saturday). This can be accommodated on the local road network as observed by the Highway Authority.
66. The observations of Network Rail are noted with regard to the proximity of the site to a low bridge on Station Road when proceeding in a westbound direction towards Old Dalby. In practice this will be self-enforcing as larger vehicles would not be able to proceed via this route. A condition could be imposed to ensure vehicles only turn right when exiting the Business Park (see also, amenity grounds for this condition discussed below).
67. Parking provision is not available within the application site, however six spaces are available within the 'blue edge' of the site, i.e. on land within the control of the applicant. This notwithstanding, ample space exists within the site for additional parking provision. Were permission to be granted, details of parking provision within the application site could be provided.

#### Noise/Air Quality/Dust

68. The application is submitted with a noise assessment which indicates the maximum noise output from activities on the site will be from the pressure washer and trommel screen and loading by excavator at 81.9dB and 87dB respectively, rising to 87.3dB cumulatively.
69. It is referenced in the planning application, that there will be acoustic screening however no details have been supplied of this. In any case, some of the acoustic screening suggested would require planning permission in its own right and therefore cannot be taken into consideration.
70. There remains an extant planning permission for new homes immediately adjacent to the application site. The rear gardens of these homes are located in close proximity to the site and would be impacted by noise from site operations. The site is also allocated for housing in the neighbourhood plan. Notwithstanding the merits of this allocation and planning permission in close proximity to a commercial site; there are clearly greater mitigations needed to avoid noise and disturbance from activities on the site. In this instance, these controls and mitigations have not been fully explored and the proximity of the site to the neighbouring residential properties is a significant cause for concern through noise impacts from site operations.
71. The noise assessment indicates that noise at existing houses (along Station Road – approximately 200 metres away) will be between 33 and 54 dB

depending on operations on site and the level of on-site noise mitigation. However, as has been mentioned, limited detail is provided of this noise mitigation. The noise assessment also makes reference to the new dwellings which have not been built but have an extant planning permission. These new homes have not been mapped correctly in the noise assessment and therefore the noise exposure to the new dwellings is likely to be considerably higher.

72. This is compounded by the main access to the site being taken from the road along this boundary. Increased vehicle movements are likely to compound the noise and activity disturbance created by activities on site. Overall, the noise assessment and on site noise mitigation is unclear as to the amount of noise exposure that nearby houses would be subject to. In the absence of this detail, concerns are expressed that insufficient information is available to fully assess the noise impact on neighbouring homes (existing and permitted).
73. The applicant's noise report identifies that the noise from operations on site would reach 87.3dB. This is considered an unacceptable level of noise and disturbance in such close proximity to the site of new residential properties. It would not be mitigated by intervening screening or other controls. The level of noise generated could not reasonably be controlled by way of condition. In this regard, the amenity of future occupiers of residential properties could be adversely affected by the development.
74. The application has been supported by an air quality and dust assessment. The prevailing wind direction indicates that any dust generated from the site will primarily be directed towards the north east, from the south west, which is broadly away from existing and proposed residential uses. However the wind direction would occasionally blow towards the site of the new homes (referenced above). Without adequate screening on the boundary and full consideration of the permitted but unbuilt homes, there is therefore a significant chance that fugitive dust would be spread in and around the homes of the new housing estate, especially during higher wind events.
75. For the reasons listed above, the development does not comply with policy DM2 of the LMWLP.

#### Odour

76. The processing inert waste is unlikely to raise odour concerns to occupiers of residential properties. There are therefore no material concerns regarding odour from this type of waste.

#### Other amenity issues

77. The application site is contained entirely within an allocated key employment site. The existence of an extant planning permission for housing on nearby land is of concern, as noted, due to its proximity to this site and other existing commercial/industrial uses within the overall employment site.

78. HGVs are proposed to be routed to the east of the Business Park in order to mitigate disturbance due to HGV traffic. This is assisted by the presence of a low bridge of the railway which is likely to prevent most HGVs from taking this route in any case. If the application were otherwise acceptable, a condition would be required to prohibit left turns out the Business Park.

#### Flood Risk

79. The Lead Local Flood Authority has no objections to the scheme as the site is presently laid to hardstanding, has an existing drainage system and would not result in additional surface water discharge.

#### Contamination

80. The land is not known to be contaminated, however given the site's history, this remains a possibility. Nevertheless, in this instance, the application is not seeking to undertake any works which could affect made ground.

#### Socio-Economic Impact

81. The proposal would provide two additional full time equivalent jobs. Whilst this is not a high number, it does offer the opportunity for additional local employment which is to be welcomed.

#### Conclusion

82. The application seeks permission for the establishment of a waste recycling transfer station on land at Old Dalby Business Park. The existing and proposed uses, while contrary to the employment policy allocation, are broadly similar and compatible with the nature and prevailing activities within the Business Park. The type of development proposed is regarded as being within an unsuitable location having regard to the provisions of policies W4 and W5 due to its distance from the sources of CD&E waste.
83. The proximity to a nearby extant planning permission for residential properties raises significant concerns due to the proximity of this bad neighbour use with insufficient mitigation being in place to control adverse effects (noise and dust).
84. As such the application is considered unacceptable for the above discussed reasons and is recommended for refusal.

#### Statement of Positive and Proactive Engagement

85. In determining this application, the Waste 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. Issues of

concern have been raised and the applicant has been given the opportunity to provide further submissions to support their application. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### **Recommendation**

REFUSE permission for reasons set out in Appendix A.

**Reasons for refusal**

1. The application site is located on a Key Employment Site as defined by policy EC2 of the Melton Local Plan however is located outside of the broad areas for waste facilities as set out in the policies W4 and W5 of the Leicestershire Minerals and Waste Local Plan. Permitting this development in this location would result in a waste facility in an unsustainable location which is distant from the main areas of waste arisings. This would give rise to unacceptably long transport distances which could otherwise be located more sustainably in urban areas and broad locations which are identified for waste facilities. As such the proposed development fails to comply with the provisions of policies W4 and W5 of the Leicestershire Minerals and Waste Local Plan (2019).
2. The proposed development is located in close proximity to an area with an extant planning permission for residential development, which is also allocated for residential development in the Old Dalby Neighbourhood Plan (adopted 2018). Insufficient information has been provided to demonstrate that the new homes in close proximity to the site would not result in intrusion, disturbance and environmental impacts through noise and dust emissions from the site to the detriment of the amenity of future occupants of these residential properties. The proposal therefore fails to comply with policy DM2 of the Leicestershire Minerals and Waste Local Plan (2019), policy DM1 of the Melton Local Plan (adopted October 2018) and the provisions of paragraph 185 of the National Planning Policy Framework

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