



**DEVELOPMENT CONTROL AND REGULATORY BOARD**

**11 NOVEMBER 2021**

**REPORT OF THE CHIEF EXECUTIVE**

**COUNTY MATTER**

**PART A – SUMMARY REPORT**

<b>APP.NO. &amp; DATE:</b>	2021/CM/0112/LCC (2021/1552/03)
<b>PROPOSAL:</b>	Continued use of aggregate bagging plant facility
<b>LOCATION:</b>	Husbands Bosworth Quarry, Welford Road, Husbands Bosworth, LE17 6JH
<b>APPLICANT:</b>	Mick George Ltd
<b>MAIN ISSUES:</b>	Principle of development; Location of site; Traffic and transport; Environmental impacts; Amenity of residents; Flood risk
<b>RECOMMENDATION:</b>	Refuse planning permission

**Circulation Under Local Issues Alert Procedure**

Mr. B. L. Pain CC

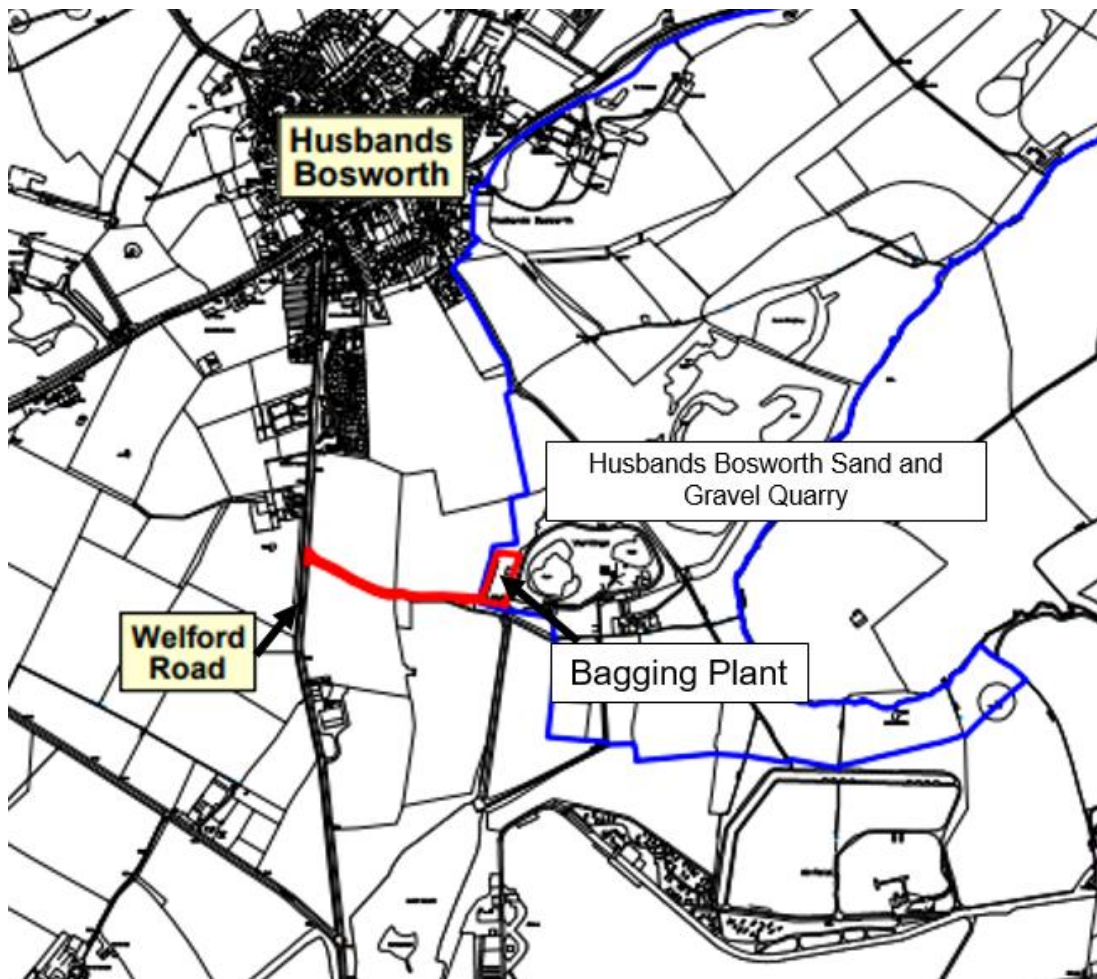
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## PART B – MAIN REPORT

### The Site and Surroundings

1. Husbands Bosworth quarry comprises a sand and gravel extraction site located to the south of the village of Husbands Bosworth. The wider area surrounding the site is gently undulating pastoral grassland and pepper potted with small villages. The village of Husbands Bosworth, to the north of the quarry, is broadly aligned along Kilworth Road/High Street/Theddingworth Road (the A4304) and Leicester Road towards the north with 20<sup>th</sup> and 21<sup>st</sup> century housing estates around the edges. To the east of the village is Bosworth Hall and Saint Mary's Church, both of which are listed grade II\*.



2. The site is otherwise surrounded by fields with sporadic commercial uses and other villages beyond. The River Welland is located towards the east of the quarry.
3. The wider site is the sand and gravel quarry, formerly worked by Tarmac. The application site itself comprises a large barn style structure surrounded by loading and unloading areas, gravel bagging storage areas, plant and parking. It is accessed via the main quarry haul road which meets Welford Road to the west.

## **Background**

4. Husbands Bosworth quarry was first granted planning permission for sand and gravel extraction in the 1950s. It has an extensive history for this use, and associated uses, over the intervening period. Significant areas of the quarry have been restored and backfilled which has involved the importation of inert waste.
5. Extraction operations at the wider quarry ceased in 2019. Inert waste disposal at the site has continued during this time in order to facilitate its restoration and many elements of the site have been restored or are in the process of being restored.
6. The bagging plant which is the subject of this application was allowed under the remit of planning permission 98/0329/03 dated 18 May 2000. As part of the discharge of condition 11 in July 2005, the approval stated:

“The principal purpose of the development shall be related to the bagging of aggregates from Husbands Bosworth Quarry. The proposed building shall not be used for any other industrial or commercial use.”
7. The agreement to allow the bagging plant was also allowed subject to:

“The building shall be removed from the site and the site restored within 12 months of the cessation of sand and gravel extraction at Husbands Bosworth Quarry in accordance with details that have been previously approved by the Director of Community Services.”
8. Subsequent planning permissions have allowed for the temporary importation of 26,000 tonnes of material per annum to the site for processing purposes. This was restricted to be sourced from Mountsorrel Quarry which, at the time, was in the same ownership. This was further linked to (inter alia) planning permission 98/0329/03 and did not override its effects. The importing of material should have ceased around 2019 (alongside extraction activities at Husbands Bosworth).
9. As mentioned above, the quarry ceased operating in 2019 although the applicant has not provided a specific date. Monitoring visits conducted in late 2019 suggest that the quarry had ceased extraction on, or by, 31 December 2019. Accordingly, the criteria of the letter of 25 July 2005 apply and the bagging plant is required to be removed in accordance with a scheme of restoration.
10. No restoration scheme has been submitted and the bagging plant continues to operate using imported material. The source of this material has not been supplied by the applicant and remains unknown. The amount of imported and processed material is also unknown but is advised by the applicant to be around 1,200 tonnes per week.
11. Concurrent to this application, the Council has recently agreed an extension to the time for restoration of one part of the quarry. Other elements are overdue for restoration however these have been delayed by legal issues that are in the process of being resolved.

12. An application to extend and continue the life of the quarry (reference 21/0683/03) is also under consideration by the Council, having been submitted earlier this year. This application is Environmental Impact Assessment (EIA) development and is presently the subject of a Regulation 25 information request for further information. As a point of reference, this outstanding request seeks further information about the continued use of the bagging plant. This application is expected to be reported to DCRB in due course.

### **Planning History**

13. The wider application site has an extensive history dating back to the 1950s. The most recent and/or pertinent planning permissions relating to the site are detailed below.
- a) 98/0329/03: Extension of sand and gravel workings with restoration to agriculture, woodland and heathland. Permitted.
  - b) 2007/1868/03: Phased extraction of sand and gravel from an extension to Husbands Bosworth Quarry and construction of replacement silt and clean water lagoons. Restoration to woodland, grassland scrub and lakes. Permitted, not implemented.
  - c) 2010/0798/03: Planning Application and Supplementary Ecological Assessments to extend the time limit for implementation of planning permission ref. 2007/1869/03. Permitted and implemented.
  - d) 2012/1030/03: Importation of foreign material for washing and processing. Permitted subject to restriction on material source (Mountsorrel Quarry), material type (granite dust) and a maximum of 26,000 tonnes per annum. Permitted 24 September 2012.
  - e) 2020/2015/03: Variation of condition 3 of planning permission 2010/0798/03 in order to allow restoration works to be completed by 31 October 2021. Permitted, 28 January 2021. This permission has not been implemented.
  - f) 21/0683/03: Extraction of sand and gravel. Importation of inert material and topsoil for restoration of the site, installation of concrete batching plant, placement of mineral washing plant and continued use of bagging plant. EIA development. Submitted March 2021, the application has been the subject of extensive consultation and is presently the subject of a Regulation 25 information request.

### **Description of Proposal**

14. The application seeks permission to continue operating the bagging plant. This incorporates the retention of the existing building and associated plant and equipment. The existing building comprises a barn like structure with dimensions of around 12 by 15 metres with a height to eaves of about 5 metres. The building is surrounded by open storage of pallets, material for the bagging operation and is set largely on crushed and compacted gravel and hardcore.
15. The use of the site itself comprises the importation, processing and export of around 1,200 tonnes of material per week. Although not set out as part of the

application documents, this is estimated to equate to, up to, 60 trips per day (30 in, 30 out).

16. Access to the site is obtained via the main quarry haul road onto Welford Road.

### **Planning Policy**

17. National Guidance: The NPPF advises (para 205) that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions.

18. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

19. Adopted Leicestershire Minerals and Waste Local Plan (2019):

Policy M1: Supply of Sand and Gravel Aggregate  
 Policy M2: Supply of Sand and Gravel Aggregate from Existing Sites  
 Policy M13: Associated Industrial Development  
 Policy DM1: Sustainable Development  
 Policy DM2: Local Environmental and Community Protection  
 Policy DM5: Landscape Impact  
 Policy DM10: Public Rights of Way  
 Policy DM12: Restoration, Aftercare and After-use

20. Adopted Harborough Local Plan (2019):

GD1 Achieving sustainable development  
 GD3 Development in the countryside

### **Consultations**

21. The following consultation responses are a summary of those received and are expanded upon where pertinent.

22. **Harborough District Council** – None received.

23. **West Northamptonshire Council** - None received.

24. **North Northamptonshire Council** – No objections.

25. **Husbands Bosworth Parish Council** – Requests that the relevant wheel cleaning equipment be fully functional and wheel cleaning requirements for all lorries leaving the facility, be strictly enforced.

26. **Welford Parish Council** – Objects based on:

- the increased volume of traffic.

- the absence of a traffic mitigation plan which should be provided when such a significant level of large lorry movement is proposed; Cox Automotive Europe at Bruntingthorpe Proving Ground had planning conditions as part of its application to ensure there was a traffic management plan and complaint process for the surrounding villages, which the Parish Council feels sets a precedent for such planning applications.
  - If the A5199 High Street and Northampton Road become blocked for any reason, there is no alternative route through the village for goods vehicles, Northamptonshire Highways are considering placing an HGV restriction in and around Church Lane, West Street and West End which are quite narrow in places due to the width and bends of the road and residents parking. There is also the safety of children and adults from the School and Nursery to consider on West Street, and all within the Conservation Area with the added dangers to the children that an increase in traffic would create.
  - Considers that this is an unsustainable activity to mine the gravel at one location, transport it to Husbands Bosworth, tip the load then re-bag and transport to a destination.
  - The 2019 Environmental Bill has been introduced to ensure environmental issues are considered.
27. Welford Parish Council recognises that LCC needs sand and gravel for continued development. However, the traffic flows should be mainly in the direction of the Leicestershire area, accepting that some of the materials may also be used in Northamptonshire. We ask that a traffic management plan similar to the one already in place at Bruntingthorpe Proving Ground for Cox Automotive Europe is adopted and that strict enforcement controls and reporting mechanisms are in place for errant drivers.
28. **Environment Agency** – No objection.
29. **Lead Local Flood Authority** – No information regarding the existing or proposed surface water drainage management has been provided. However, in light of the details submitted under 2021/CM/0041/LCC and the nature of the application, the LLFA would support the approval of 2021/CM/0112/LCC in relation to surface water flood risk.
30. **Highways Authority** – It is imperative to accurately determine if the proposed development will result in an increased use of an existing access which is on a high-speed A road. Therefore, the highway authority requests details are submitted which compare the existing and proposed trip generation based on historical data on record for the existing site. Furthermore, due consideration should be given to the implications to the wider site when fully operational should the bagging plant result in any increase in trips. In the absence of the above information the LHA is unable to determine the impact of the proposed development and if permitted it is likely to lead to an increase in turning movements onto a high-speed A road which is fundamentally contrary to Section IN5 of the LHDG. Therefore, in prioritising and maintaining traffic flow and safety on this classified A road the LHA advises refusal of this planning application.
31. **LCC Ecology** – No objection.
32. **LCC Landscape** – No objection.

33. **LCC Heritage** - The listed buildings in Husbands Bosworth will not be affected.
34. **LCC Archaeology** - Having reviewed the application against the Leicestershire and Rutland Historic Environment Record, we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets.
35. **Historic England** – No objection.

### **Publicity and Representations**

36. The application has been publicised by means of site notices located on Welford Road and the bridleway to the east of the application site. A press notice was placed in the Harborough Mail on 26 August 2021. No neighbour notification letters were issued due to separation distance between the site and nearby homes.
37. Two objections from the public were received, which expressed concern regarding noise and traffic in the nearby villages of Husbands Bosworth and Welford. It has been reported that there could be up to 40 trips a day and that local roads are narrow at points and incapable of dealing with a large number of HGVs.

### **Assessment of Proposal**

#### **Principle of the Development and Planning Policy Assessment**

38. The application site is identified as open countryside within the Harborough Local Plan and forms part of an allocated site for sand and gravel extraction under policy M2 of the Leicestershire Minerals and Waste Plan.
39. The use of the site as a bagging facility to process minerals is capable of being acceptable subject to compliance with policy M13 which states that planning permission for ancillary industrial development within or in close proximity to mineral sites will be granted provided that it is demonstrated that there is a close association with the mineral site and there are environmental benefits in providing a close link with the extraction site.
40. The supporting text to policy M13 states that *“regard will be taken of environmental effects, transportation implications, visual amenity and proposed timescales. Where planning permission is granted, conditions will be imposed to ensure that minerals supplying the development are sourced principally from the adjacent extraction site and that, upon cessation of mineral extraction, the development will be removed, and the site restored unless there are overriding reasons for its retention.”*

#### **Background and history**

41. The application site is located within flood zone 1. The site is also in reasonably close proximity to two grade II\* listed buildings, numerous grade II listed buildings and conservation area within the village of Husbands Bosworth.

42. As has been summarised above, the wider Husbands Bosworth site is a well-established quarrying operation with a history dating back to the 1950s. The quarry is not presently undertaking any quarrying operations with these completing on or before 31 December 2019. Landfilling of previously worked parts of the quarry is continuing with many elements being restored. In 2020, part of the site had the operator transferred from Tarmac to Mick George Ltd. It is understood Tarmac retain control over landfilling areas of the site for the present time but are otherwise intending to vacate the site once this is complete. Mick George Ltd is seeking to progress with the expansion of the quarry operations in line with planning application 21/0683/03.
43. The bagging plant itself is continuing to operate and it is this activity that this planning application seeks to regularise. The facility is being operated by a company called GRS. It is understood that this operation entails the importation of sand and gravel material; its processing on site, washing and bagging and then dispatch to clients. No material is presently sourced from on site, nor has or could it have been, since the quarry's recent completion of extraction.
44. The origin of the bagging plant dates from 2005 when prior approval was given in line with the requirements of condition 11 which controlled "permitted development" rights and restricted mineral to be processed to be solely from the quarry itself. A subsequent variation allowed for importation of material from Mountsorrel Quarry, however, this operation is understood to have since ceased.

#### Use of quarry for importation of material

45. As has been noted, use of the bagging plant for processing material from on-site is capable of being acceptable in principle by policy M13 given that it can allow for the effective processing of material in situ. This represents a sensible diversification of an operation and, indeed, is a common feature throughout Leicestershire, especially on larger extraction sites. Policy M13 requires that development will only be approved where it can be demonstrated that it is directly associated with the mineral extraction and there are clear environmental benefits in providing a close link between industrial processing activities and associated mineral operation.
46. The importation of material from an off-site, and unknown, source does not accord with policy M13. The applicant has provided minimal details about the amount of material brought in, where it is sourced from, and what the number of vehicle movements to and from the site are. However, the applicant has suggested that the current amount of material being imported is around 1,200 tonnes per week. This has not been independently verified. Based on the applicant's stated material volume, it is estimated that the use generates up to 60 (30 in, 30 out) HGV trips per day.
47. This process will result in a frequent number of HGVs importing and exporting large amounts of material unknown distances. This contradicts policy M13 which supports ancillary related development at extraction sites. Policy M13 does not support the creation and use of such sites for purposes that remain unconnected with any established or ongoing quarrying operations.
48. The applicant has already been using the site as a bagging plant for at least 22 months. Final restoration of the site was due around 10 months ago (12 months



following cessation of use). The applicant seeks a temporary permission for two years despite already operating without permission for a considerable period of time.

49. The continued use of the site as a bagging facility, even on a temporary basis, in association with the importation of material is contrary to policy M13.

#### Landscape and Visual Impact

50. The bagging plant is relatively large. It appears as an industrial barn-like structure and is surrounded by associated commercial items including areas of compacted gravel, wooden pallets and bags of aggregate. The building should have been removed and the site restored at least 10 months ago. Therefore, the context of the site should be as a restored part of the quarry. Direct comparison with how the site should look is not possible as no scheme of restoration has been received. However, a reasonable assessment would be a comparison with other restored areas which so far have been returned to agriculture or heathland and other natural features.
51. The continued retention of the building would be unsightly and harmful to the visual amenity of the area. Approval of the application would therefore be contrary to policy DM12 of the Leicestershire Minerals and Waste Plan and policy GD3 of the Harborough Plan.

#### Noise, Air Quality/Dust

52. The application has not been supported by a report setting out the findings of a noise assessment. Notwithstanding this, the site is set within the context of the wider quarry, relatively distant from nearby residential properties and no noise complaints have been received. Harborough District Council's Environmental Health Officers have not raised objections to the continued use nor recommended that mitigation measures be applied. Accordingly, there is no policy conflict in this regard.
53. No specific assessment has been provided as part of the application. Nevertheless, due to aggregate being the type of material being bagged this is typically not a substantial dust generator. In the event of the application being acceptable in all other respects, dust mitigation measures would be required and secured by planning condition.

#### Amenity of nearby residents

54. The main impact from the operation of the bagging plant is through the generation of vehicle traffic, particularly HGVs which, despite limited information being submitted by the applicant, is understood to pass through various nearby villages including Husbands Bosworth to the north and other villages along the A4304 along with Welford to the south on the A5199.
55. As is explored below (under traffic and access), limited details about vehicle movements have been provided by applicant. However, it is reasonable to assume, on the basis of 1,200 tonnes of material being processed per week; that this would be up to 60 HGVs attending the bagging plant per day.

56. It is noted that this number of vehicles is likely to be less than that which historically would have visited the quarry. Moreover, all the nearby villages are located on the strategic road network – being located on A class roads where a degree of heavy goods traffic is to be expected.
57. Minerals are a finite resource and are not always located in locations which are away from residential properties. However, due to the scarce nature of minerals they must be extracted where they are found. Accordingly, ancillary facilities to support this function may also be considered acceptable where they relate to the parent function. In this instance, the material is imported, and this exception does not apply. The number of HGVs being placed on local roads by the bagging plant cannot therefore be justified and passing HGVs will clearly have an impact on local residents' overall quality of life due to continued exposure to noise and vibration.
58. It should be recognised the bagging plant almost certainly creates less vehicle movements than the quarry could have generated, when in operation, and nearby villages are located on strategic roads where noise from HGVs is to be expected. Accordingly, whilst the impacts from HGVs are not considered desirable, it is not considered that HGV movements from the bagging plant are, of themselves, likely to cause a serious impact upon residents' quality of life. Were the application acceptable in all other respects, planning conditions would be required to control the times upon when HGVs could enter and leave the site to minimise noise and disturbance. Controls over routeing may have also been required.

#### Traffic and Access

59. As has been observed by the Highway Authority, limited information has been provided in relation to vehicle movements. It is important to accurately determine if the proposed development will result in an increased use of an existing access which is on a high-speed A road. Therefore, the highway authority has requested that details are submitted which compare the existing and proposed trip generation based on historical data record for the existing site. This information has not been forthcoming from the applicant.
60. It is the responsibility of the applicant to demonstrate what vehicle movements are taking place in association with the use so that the impacts can be assessed. This will allow the local highway authority to understand the impact upon the highway network and whether it is possible to mitigate those impacts, for instance by planning conditions or design changes. In the absence of this information, the continued use has the potential to adversely affect highway safety contrary to policy DM9.

#### Flood Risk

61. The related EIA planning application (21/0683/03) was submitted with a full drainage assessment and consideration of flood risk. The LLFA has raised no objections to that planning application 21/0683/03. Although similar supporting information should have supported this planning application, given the context, no objections have been raised to this scheme.

### Ecology and Biodiversity

62. The existing site is laid to a mix of gravel, hardstanding and buildings with sporadic vegetation. It is unlikely to be of any ecological benefit. Were the application to be permitted and land subsequently restored, some form of ecological benefit would be required. The wider restoration of the site is subject to a condition on the original quarry permission.

### Heritage

63. The site forms part of the wider pastoral land associated with Bosworth Hall to the north. However, as observed by the County Council's Heritage Officer, the proposal is unlikely to impact on this, or any other, historic buildings' settings and therefore no objections are raised in relation to policy DM8.

### Contamination

64. The site is not known to be contaminated and, in any case, this development, as an existing structure, does not result in any ground disturbance that could release contamination into the surrounding environment. The continued use would therefore not conflict with policy DM2.

### Socio-Economic Impact

65. It is recognised that refusing planning permission will impact on an existing business and may have an impact upon jobs. However, this business has been operating without permission for some time and the impacts of the continued use involving material importation would cause environmental harm that outweighs the economic impacts. It should be noted that the applicant has the option to seek to obtain a planning permission that overcomes the policy concerns set out within this report and if that were successful, the continued operation of the business would be secured.

### Conclusion

66. Husbands Bosworth Quarry ceased operating as a sand and gravel extraction site on or before 31 December 2019. In accordance with the terms in which the bagging plant gained permission, the bagging operation should have ceased, and the site should have been restored, by 31 December 2020. The operator has not sought to rectify this situation and the bagging plant has continued to operate as a stand-alone operation without co-location benefits that would justify the grant of planning permission. This situation has perpetuated for a period of nearly two years.
67. The EIA planning application that could authorise elements of the bagging plant for use in connection with sand and gravel extraction is undetermined due to an outstanding Regulation 25 request for further information. While it is possible that the outstanding issues could be resolved, the outcome is currently unknown and therefore that should not prevent determination of this application.
68. The development, as proposed, conflicts with policy M13 of the Leicestershire Minerals and Waste Local Plan and by extension is harmful to the appearance of the landscape. Further, insufficient information has been submitted to allow an

assessment of the highway safety implications of the development. As such the application is recommended for refusal.

69. In some circumstances where a planning application seeking retrospective approval to continue its use is recommended for refusal, it would be appropriate to take enforcement action. That option is something that would be necessary if the unlawful use continues bearing in mind enforcement action must be in the public interest and should only be taken as a last resort. As stated above, a planning application is currently being considered that seeks permission for an extension to the quarry and would involve a link to the operation of the bagging facility. Further information is being sought from the applicant in this respect. If those matters can be clarified, it is possible that the policy conflict could be addressed by condition. In that situation, it is a possibility that enforcement action could be avoided. Potential enforcement action will be kept under review over the next few months.

### **Statement of Positive and Proactive Engagement**

70. In determining this application, the Local 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 the representations received. Issues of concern have been brought to the applicant's attention in a timely manner affording the opportunity to consider whether such matters can be suitably resolved. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal.

### **Recommendation**

Refuse permission subject to the reasons set out in Appendix A.

### **Officer to Contact**

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**Reasons for refusal****APPENDIX A**

1. The continued use of the site as a bagging plant operation would result in material being imported from unknown locations, with no association with the Husbands Bosworth Quarry site. This would result in an unsustainable form of development in a rural location. The continued use would not benefit from co-location benefits, leading to a form of industrial development in a countryside location. As such, the continued use would be contrary to policies DM1 and M13 of the Leicestershire Minerals and Waste Local Plan (2019).
2. The continued use would result in a discordant and industrial addition to the landscape which would adversely affect the character and quality of the area in which it is located. Approval of the application would therefore be contrary to policy DM5 of the Leicestershire Minerals and Waste Local Plan (2019) and policy GD3 of the Harborough Local Plan (2019).
3. The applicant has failed to demonstrate that the continued use would not create a level of vehicle movements that would be a danger to road users, harming highway safety, contrary to policy DM9 of the Leicestershire Minerals and Waste Local Plan (2019), policy IN5 of the Leicestershire Highway Design Guide and paragraph 110 of the National Planning Policy Framework 2021.

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