



DEVELOPMENT CONTROL AND REGULATORY BOARD

12 MAY 2022

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

APP.NO.	2022/VOCM/0003/LCC (2022/0111/07)
DATE OF VALIDATION:	18 January 2022
PROPOSAL:	Variation of conditions 4, 5, 6 and 7 of planning permission 2013/1023/07 to allow an increase in annual throughput for the bulking and transfer of non-hazardous waste materials and relocation of the cycle parking area.
LOCATION:	Rawdon Business Park, 3 Marquis Drive, Moira, Leicestershire DE12 6EJ
APPLICANT:	Citron Hygiene Limited.
MAIN ISSUES:	Principle of development – policy and waste transfer outside broad location; use class issues; economic impacts; parking and access; amenity
RECOMMENDATION:	Permit subject to conditions as set out in Appendix A

Circulation Under Local Issues Alert Procedure

Mr. R. Ashman CC

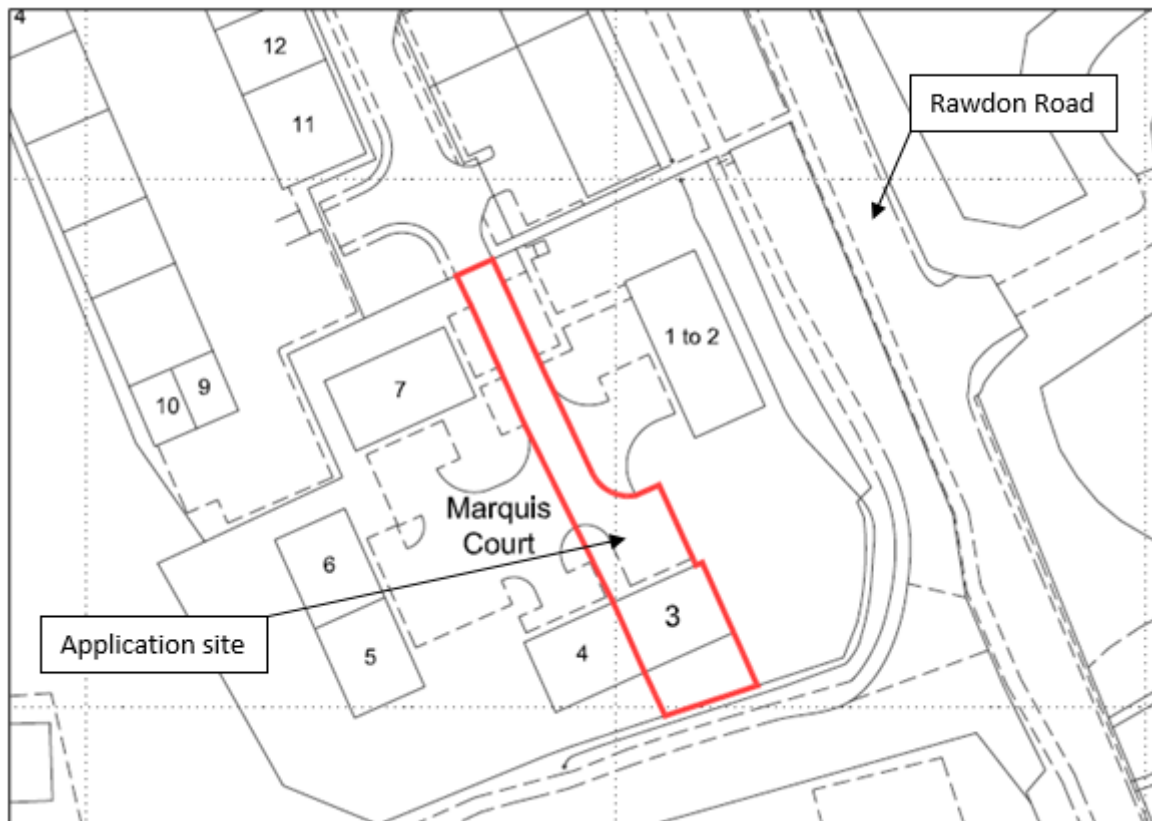
Officer to Contact

Nick Bowden (Tel. 0116 305 4701)
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

The Site and Surroundings

1. Rawdon Business Park is located towards the north of the village of Moira. It comprises a small estate of light industrial/commercial units in reasonably modern format with roller shutter doors and forecourt parking and servicing. The estate was permitted in 2006 by North West Leicestershire District Council. Access to the industrial estate is gained off Millenium Avenue which joins Rawdon Road to the east. The application site lies within Marquis Court, the southernmost part of the estate. Marquis Court has seven industrial units which are arranged around a central parking and circulation area and is accessed from Marquis Drive to the north.



2. The character of the wider area is varied, being formed of restored woodland, former gravel pits, farmland, recreation areas and sporadic quasi-suburban/semi-rural residential development. The outdoor adventure centre, Conkers, is located approximately 100 metres to the west.
3. Unit 3 is not typical of the units within the small industrial estate; comprising a two storey height building with open roller shutter door to the front. The main operating area of the premises being double height with administrative and office accommodation being set to the eastern side of the building over two floors. An outdoor forecourt area exists to the front of the building for parking and deliveries with small service yard to the rear.

Background

4. Planning permission was granted in February 2014 for the use of unit 3 for the bulking and transfer of non-hazardous waste. Specifically, the servicing of

washrooms to healthcare and commercial organisations, supplying hygiene products such as soap, hand dryers, cleaning products and dispensing machines; together with waste collection for sanitary and clinical waste. Since the grant of permission, the operation has continued, diversified and expanded operations whilst simultaneously adjusting the operations model to require smaller floorspace due to decreased time on site for the storage of waste materials.

5. There are around forty-two 770 litre lockable clinical/non-permeable wheeled containers (otherwise known as ‘euro bins’) that are located within the existing industrial building where sharps and clinical bagged waste can be safely stored and bulked up ready for collection. The lockable euro container bins are collected by waste collection vehicles when new ones are dropped off. The waste collection vehicles are typically 7.5 tonne Light Goods Vehicles (LGVs). There is a ‘roll-on roll-off’ (RoRo) storage container in the yard of the premises for the storage of bagged sanitary and nappy waste streams. The container is taken off-site to a suitably licensed waste management facility whereby the waste will undergo either thermal treatment or will be landfilled.
6. The premises were formerly operated in connection with another unit at Marquis Court – unit 5 – however this other premises was vacated in 2018.

Planning History

7. 2013/1023/07 - change of use application to establish a small scale waste transfer and bulking up facility. Permitted subject to conditions (19 February 2014). Below is a summary of pertinent conditions which are considered in further detail later in this report:
 4. Restriction on number of waste collections;
 5. Restriction on waste tonnages – capped at 200 tonnes;
 6. Link to unit 5 Marquis Court;
 7. Provision of cycle storage.
8. 06/01390/FUL - Erection of three industrial units (B1, B2 and B8 use) (amended scheme). Permitted by North West Leicestershire District Council (27 October 2006).

Description of Proposal

9. The application proposes a variation to conditions 4, 5, 6 and 7 of the original planning permission Ref. 2013/1023/07. Amendments to conditions 4 and 5 are proposed as follows (underline/strikethrough indicates proposed changes):

Condition 4: No more than ~~two~~ ten collections of bulked up waste from the site edged in red on drawing No. GPP/1st/CH/M/13/02a (Rev. 1) shall take place per week. From the date of commencement of the operations hereby permitted, the operator shall maintain records of all bulked up waste collected from the site, including the time and date of collections, and shall make these records available to the Waste Planning Authority at any time upon request.

Condition 5: No more than ~~200~~ 1,000 tonnes of the waste specified in Condition 3 above shall be imported to the site within any 12 month period. From the date of commencement of the operations hereby permitted, the operator shall maintain

records of the weight of all waste imported to the site and shall make these records available to the Waste Planning Authority at any time upon request.

10. Both conditions 4 and 5 are sought to be varied in order to allow the increase in throughput at the premises. For reference, the increase in waste collections would effectively be increased from one LGV every other day to two per day. The increase in waste movements would allow for a broad average of deliveries of slightly less than 4 tonnes per working day.
11. The applicant proposes that Condition 6 be deleted in its entirety. The condition currently states:

“This permission is linked to the administrative and washroom hygiene product storage operations taking place at Unit 5 Marquis Court, Rawdon Business Park, Moira, Leicestershire, DE12 6EJ, which combine with the waste bulking operations hereby permitted at Unit 3 Marquis Court. In the event that the stated operations at Unit 5 are considered by the Waste Planning Authority to have ceased for a period of more than six months, the waste operations hereby permitted at Unit 3 shall also cease and all waste shall then be removed from site within one month of cessation of the waste operations. is proposed to be deleted as the premises at unit 3 (the application site) is no longer connected with, or operated in conjunction with, unit 5.”

12. Condition 7 states “The internal cycle storage area detailed on Drawing No. GPP/1stCH/M/14/01 (Rev. 1) – ‘Cycle Parking Plan’ received by the Waste Planning Authority on 24th January 2014 shall be maintained free from obstruction until the time upon which the operations hereby permitted cease.” This condition is proposed to be amended in order to allow it to be related to Unit 3 as this is now the only premises in operation.
13. As with the previous planning permission, no waste is processed on site and is merely stored as a central hub before being transferred to specialist facilities for incineration or landfilling.

Planning Policy

The Development Plan

14. Leicestershire Minerals and Waste Local Plan (adopted September 2019) policies W4, W5, DM1, DM2, DM9.
15. North West Leicestershire Local Plan – as amended by partial review (adopted March 2021) policies D1, D2, Ec3, IF7.

National Policy

National Planning Policy Framework (NPPF)

16. Paragraph 47 notes that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

17. Paragraph 81 confirms that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

National Planning Policy for Waste (NPPW)

18. The NPPW sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Positive planning plays a pivotal role in delivering this country's waste ambitions (paragraph 1).
19. It advises (inter alia) that when determining waste 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. Authorities should consider the likely impact on the local environment and on amenity, ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located and concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities (paragraph 7).

Consultations

20. **North West Leicestershire District Council** – No objection.
21. **Ashby Woulds Town Council** – No objection.
22. **Highways Authority** – Raise no objections subject to requiring secure under-cover cycle parking.

Publicity and Representations

23. The application has been publicised by means of site notice (3 February 2022), press notice (28 January 2022) and neighbour notification letters (28 January 2022) sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.
24. One letter of objection has been received which comments upon lack of parking provision and consequent impacts upon health and safety.
25. The issues raised are considered in the Assessment of Proposal section of this report.

Assessment of Proposal

Principle of development

26. The application site is located within a Primary Employment Area as defined by policy Ec3 of the North West Leicestershire Local Plan (NWLLP) wherein

employment generating uses within Use Classes B1 (now part of Class E), B2 and B8 will be retained. Other uses will only be permitted within the Primary Employment Areas where they:

- (a) Are small scale or ancillary to the above uses; or
- (b) Maximise job outputs and are compatible with the character and function of the area and with other nearby uses and policies in the Plan.

27. Policy W4 of the Leicestershire Minerals and Waste Local Plan (LMWLP) specifies that new non-strategic waste transfer facilities will only be permitted in certain areas. In summary these comprise Broad Locations for Strategic Waste Facilities, in or close to main urban areas, or within major growth areas. The application site is not within any of these areas. Exceptions can be made for certain types of waste transfer where a more dispersed location is required but this proposal does not meet any of these categories. Therefore the scheme can only be acceptable if it can demonstrate there is an overriding need for the development and that this cannot be met within the areas set out above.
28. Policy W5 advises that, inter alia, waste management facilities will be permitted in locations which are on land with an existing waste management use and/or on existing or planned industrial/employment land.

Planning policy assessment

29. The application site is not located in an area identified for waste transfer use under policy W4; being located outside the identified areas for such uses. The operation is an existing and established waste transfer station and therefore assessed in relation to the provisions of policy W5. This allows for the extension to the existing waste transfer function subject to compliance with other relevant provisions of the development plan. As will be explored further below however, there remain questions as to the lawfulness of the premises and whether it can be considered to be an 'existing' waste transfer station. The use of the site for a commercial purpose which is compatible with the character and function of the Primary Employment Area, as defined by policy Ec3 of the NWLLP, is permissible in this location.

Consideration of background

30. Unit 5 (next door but one) to the application site was the original administrative base of operations for the company, and its wider operations regionally, upon the granting of permission for the use at Unit 3 (the application site). Although not expressly referred to in the decision notice, the supporting report notes that permission was only granted for the small scale waste transfer use due to its co-location near to the former administrative base at Unit 5. At the time of granting permission (as is the case now), permission would not normally have been supported for a waste transfer use in this location unless material considerations outweighed the policy conflict. The co-location benefits were considered a mitigating factor and permissible subject to restrictions.
31. In the intervening period (since 2018), the administrative operations based at Unit 5 have been relocated to Ashby-de-la-Zouch, approximately 3 miles away. Accordingly, the immediately apparent co-location benefits have since disappeared, but the local connection nevertheless remains.

32. Due to condition 6 of the planning permission (2013/1023/07), the operations at Unit 3 should have ceased at broadly the same time they did at Unit 5. This, clearly, did not occur and the use of Unit 3 for waste transfer operations remains unauthorised by reference to condition 5 of the original permission. This notwithstanding, the operations have since continued at Unit 3 without any complaint or obvious injury to amenity.

The applicant's case

33. The applicant highlights a number of matters which should be taken into account in the consideration of this application. Primarily:
- Small scale nature of 'waste' operations;
 - Similarities with the B8 Use Class;
 - Conflict with policy Ec3 of the NWLLP;
 - Economic benefits;
34. The applicant has highlighted that the amount of vehicles that visit the premises is comparable to that which could otherwise be conducted from the premises as a B8 operation. Indeed, if this permission were granted; 10 LGVs collecting materials per week and 1,000 tonne cap per annum on imports (and by extension – exports), is comparable, if not significantly less than what could be expected from a unit of this size in a B8 use.
35. The use is similar to a B8 Storage and Distribution use – whereby materials are delivered, stored and then redelivered to alternative premises. Indeed, ignoring the waste component in this instance, this would be a typical example of what may be considered a B8 use.
36. The applicant has provided an example of a similar use assessed under a Lawful Development Certificate by Birmingham City Council that was held to be a B8 use and therefore did not constitute a waste transfer operation at all. In this instance, the matter would fall to be considered by the District, would benefit from the original planning permission for this estate and not require further reference to either planning authority. This notwithstanding, it should be noted that each case should be assessed on its merits and it would be unusual for two sites to possess the same characteristics. Even so, this does highlight the fine balance between interpretations of similar uses.
37. This draws attention to the applicant's final point; in terms of the conflict between LMWLP (County) policies W4 and W5 and NWLLP (District) policy Ec3 insofar as one development plan policy would not, as a general principle, support such a use whilst one would actively promote it. Under policies W4 and W5 of the LMWLP, the site is outside a broad location for waste transfer operations. However, under NWLLP policy Ec3, the operation as a B8 use or closely similar would be welcomed and is consistent with the Local Plan allocation for the site and overarching policy strategy. In this regard, there is therefore notable policy tension derived from the close similarity of the operation to a B8 use.
38. The applicant further highlights that this proposal will provide growth to an existing business on Rawdon Business Park and help to retain existing office-based staff and the fleet of drivers that assist in the collection of healthcare and sanitary waste. In addition to the direct impacts, the proposal will also provide

indirect economic benefits such as business rates, wages, and other indirect service-related benefits. In accordance with paragraph 81 of the NPPF, the economic and employment benefits of the proposed development are matters to which significant weight should be attached in the planning balance.

Planning balance and continued use of the operation

39. The applicant has highlighted the similarities of this use to a B8 use, its low level impact, economic benefit and potential policy conflict between County and District development plans.
40. Additionally, there remains the question as to whether this form of waste operation (if indeed it is taken as a waste operation) is the intended target for policies W4 and W5. The supporting text to these policies seems to infer that it is not. Typically, a waste transfer use would involve significantly higher tonnages in the order of tens or even hundreds of magnitude.
41. Significant weight is placed on the reasonably low intensity of operations and similarity to a B8 use over which the Council would have no control. Indeed, taking this argument to its ultimate conclusion, the applicant could argue that planning permission 2013/1023/07 was never implemented in the first instance and merely rely on the extant permission for the industrial estate as a whole. Further, there is the noteworthy economic benefit of supporting a well established company with proven track record of success and expansion.
42. The refusal of planning permission for this use would infer a requirement upon the Council to instigate enforcement action against the use of the premises. Such action should only be taken where it passes both the tests of being expedient and in the public interest. In this case, given the arguments set out above, and the reasonable defence the applicant may make on these noted grounds, it is not regarded as expedient to take action. Moreover, given the employment generating nature of the business and lack of any demonstrable harm to amenity or other interest of acknowledged importance; such enforcement action is also liable to be justified or in the public interest. As such the County Council may consider the grant of permission unless material considerations indicate otherwise unless in accordance with LMWLP policies DM1 and DM2 and D1 and D2 of the NWLLP.

Condition modifications

43. As discussed above, the application seeks to modify conditions imposed on the original planning permission. The specifics of the condition modifications or deletions are addressed in turn below.

Conditions 4 and 5

44. These conditions of the original planning permission are sought to be revised to increase the annual throughput at the premises. The modifications proposed allow an increased tonnage per annum from 200 tonnes to 1,000 tonnes and a consequent increase in the number of deliveries that are permitted to the site, from two to ten, each day to allow for the increased tonnages.

45. The increased tonnage does represent a substantial increase in annual throughput; being five times what is presently permitted. However, it should be noted that the current restriction is extraordinarily low.
46. Increasing the collection from two collections per week to ten, also remains a modest increase in this context. Indeed, by comparison to other Use Class E or B8 uses, even a 1,000 tonnes per annum and/or ten collections per week still stands as a fairly low throughput for a commercial unit and therefore complies with policy DM9.

Condition 6

47. This condition of the original planning permission linked Unit 3 (the application site) to Unit 5 which was, at the time of the original permission, the parent unit. The operation has since streamlined and vacated Unit 5 which condition 6 did not allow for within its wording.
48. As discussed above, given that the needs of a clearly functioning business have superseded the requirements of this condition, and that no deleterious effects from operating as a single unit can be identified, its deletion is considered acceptable and in accordance with paragraph 81 of the NPPF.

Condition 7

49. This condition related to cycle parking and required the provision of this within the Unit 5's planning unit. Given that these two sites have been separated, cycle parking can no longer be provided at Unit 5. As recommended by the Highway Authority, this condition can be re-imposed over Unit 3 to ensure adequate provision of storage space for this transport method.

Other condition notes

50. Conditions 1 and 2 (time limit and notification of commencement of development respectively) are also proposed for deletion as they are no longer relevant as the development has already commenced. Other conditions are re-numbered in the proposed conditions to reflect this and other condition deletions.

Traffic, Access and Parking

51. The proposed variation to conditions 5 and 6 would allow for an increased number of movements to and from the site. There is also liable to be an increased demand for vehicle parking.
52. The Highway Authority considers that the increased movements to and from the site and can be accommodated on the highway network. Indeed, no additional information is requested on this, which confirms that additional traffic on the local network can be accommodated.
53. No specific parking standards exist for the proposed use. However, parking requirements are likely to be comparable to those for a similar use falling within Use Class E (the former Use Class B1) or B8 (notwithstanding that this site does not reach the 6Cs applicable threshold). In this location this infers one space per 55-65 square metres or one per 150 square metres respectively under the 6Cs

Design Guide. The unit has a floorspace of approximately 200 square metres and requires a maximum of four or two spaces respectively whereas six are available within the site.

54. Comments of a local business are noted with regard to the number of vehicles parked at the premises. However, given the compliant nature of the premises in terms of parking provision and that this use is unlikely to create a materially different level of parking demand to any similar B8 class use could do, no adverse impact could reasonably be expected.

Other Material Considerations

55. No external alterations are proposed, nor any other modifications, to the use of the premises.
56. The transfer of controlled waste is otherwise regulated by the Environment Agency and is already restricted by condition to be medical and sanitary waste only, as defined by the waste classification.

Conclusion

57. The application seeks to increase the annual throughput of waste and increase the number of trips to and from the site. The proposed modifications to conditions allow for the continued operation of the business and support its growth in a sustainable manner. Although the application incorporates elements of waste transfer that are not within an identified broad location for such uses, in this instance and due to the economic benefit and similarity to a B8 use which would be permissible in this location, the application can be supported.
58. Other alterations to conditions are necessary adjustments to accord with the growth of the business.

Statement of Positive and Proactive Engagement

59. 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 have been received. The applicant has also been afforded the opportunity to provide additional supporting information during the course of the application. 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

Conditions

1. This permission relates to the use of the building labelled '3' and edged in red on drawing No. GPP/1st/CH/M/13/02a (Rev. 1) – 'Site Plan' (Scale 1:1000, size A3), received by the CPA on 12th December 2013, for the storage and bulking up of the following waste arising from healthcare facilities and commercial premises, as set out within the European Waste Catalogue (2002) (established by European Commission Decision 2000/532/EC):
 - Those waste codes falling under EWC Code 18 01 – wastes from natal care, diagnosis, treatment or prevention of disease in humans; and
 - Those waste codes falling under EWC Code 18 02 – wastes from research, diagnosis, treatment or prevention of disease involving animals.

No processing of the waste types specified above shall take place at the site and no other waste shall be imported to the site for storage, bulking up or processing.

Reason: For the avoidance of doubt and to ensure that the development is carried out as proposed within the application.

2. No more than ten collections of bulked up waste from the site edged in red on drawing No. GPP/1st/CH/M/13/02a (Rev. 1) shall take place per week. From the date of commencement of the operations hereby permitted, the operator shall maintain records of all bulked up waste collected from the site, including the time and date of collections, and shall make these records available to the Waste Planning Authority at any time upon request.

Reason: For the avoidance of doubt and to ensure that the development is carried out as proposed within the application.

3. No more than 1,000 tonnes of the waste specified in Condition 2 above shall be imported to the site within any 12 month period. From the date of commencement of the operations hereby permitted, the operator shall maintain records of the weight of all waste imported to the site and shall make these records available to the Waste Planning Authority at any time upon request.

Reason: For the avoidance of doubt and to ensure that the development is carried out as proposed within the application.

4. From the date of this permission, no more than 200 tonnes of waste shall be transferred through the site within any 12 month period until such time as a minimum of 8 cycle parking stands have been provided in accordance with plan GPP-CH-M-21-02 v2 Cycle Parking Plan. The cycle parking shall be suitably covered. Thereafter the cycle parking shall be maintained and kept available for use.

Reason: In the interests of the sustainability of the development and to encourage alternative transport choice.

