

**DEVELOPMENT CONTROL AND REGULATORY BOARD****6<sup>th</sup> April 2023****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

<b>APP.NO. &amp; DATE:</b>	2022-0705-01 (2022-CM-0089-LCC) – 7 <sup>th</sup> July 2022.
<b>PROPOSAL:</b>	Retrospective change of use of agricultural land to soil and aggregates waste transfer centre (Sui Generis) and includes associated works and engineering options.
<b>LOCATION:</b>	Bracknell Farm, Leicester Road, Thurlaston, Leicestershire, LE9 7TJ
<b>APPLICANT:</b>	Winstay Aggregates Limited.
<b>MAIN ISSUES:</b>	Principle of Development and Site Location.
<b>RECOMMENDATION:</b>	A. Refuse Planning Permission B. Issue Enforcement Notice

**Circulation Under Local Issues Alert Procedure**

Mr. R. Allen CC  
Mr. L. Breckon CC  
Mr. N. Chapman CC  
Mrs. M. Wright CC

**Officer to Contact**

Katie Ferguson (Tel. 0116 305 7325)  
Email: [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

## **PART B – MAIN REPORT**

### **The Site and Surroundings**

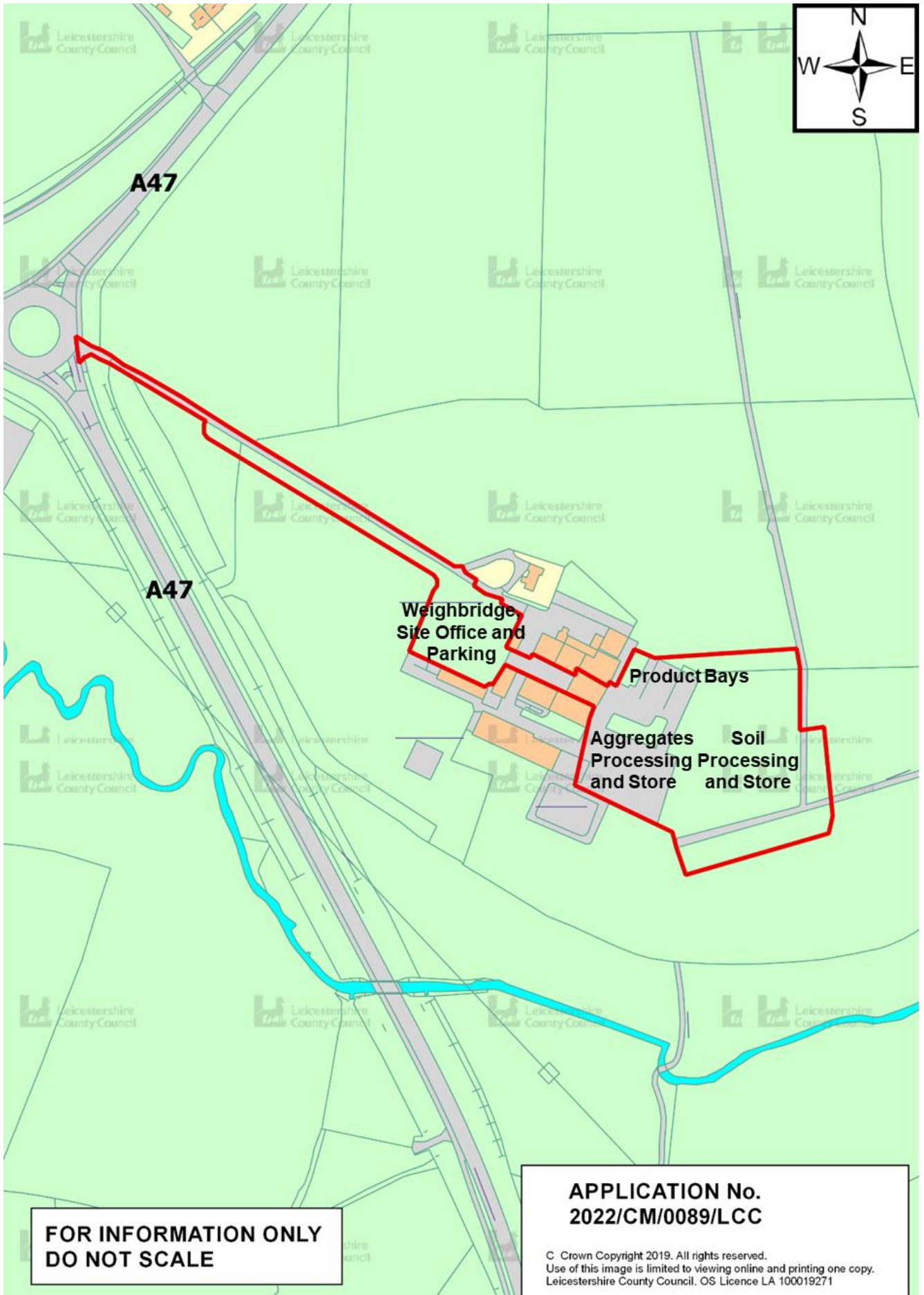
1. Bracknell Farm is located to the north-east of Earl Shilton village approximately 600m from the edge and 1000 metres from the town centre. The site is bound on all sides by agricultural fields. At its closest point, Bracknell Farm is approximately 90 metres from the settlement boundary of Earl Shilton, with the site itself sitting in Blaby District.
2. Bracknell Farm is an active working farm, within the open countryside. The total application site area is approximately 2 hectares. Within the wider setting of Bracknell Farm, a farmhouse is located to the north. To the southeast of the farmhouse lie farm buildings occupied by multiple businesses. On the southern boundary of the built form of the farm lies the buildings that house the farm animals.
3. Access to Bracknell Farm is via a shared access for the farm and additional uses, off a roundabout junction connecting Leicester Road and the A47.
4. The nearest residential property outside of the wider farm site lies approximately 380 metres to the north of the site on Clickers Way, further residential properties are located approximately 500 metres to the southeast of the site on Earl Shilton Road.
5. There are no Public Rights of Way within the immediate vicinity of the site.

### **Planning History**

6. Planning Permission (reference 11/0944/1/PY) was granted in February 2012 by Blaby District Council for the installation of solar panels to the roof of an agricultural building.
7. Planning Permission (reference 12/0586/1/PX) was granted in September 2012 by Blaby District Council for the change of use of an agricultural building to a workshop, office, and store for horticultural use.

### **Description of Proposal**

8. The application proposes a retrospective change of use of agricultural land to soil and aggregates waste transfer centre (Sui Generis) and includes associated works and engineering operations.
9. The proposed application is retrospective as works have already commenced, the application form stating it started on 04/09/2021.



10. The proposal seeks to import 75,000 tonnes per annum of non-hazardous soil and aggregate waste.
11. In addition, the application incorporates a screener, crusher, and excavator to move, sort, and prepare material onsite.
12. It is proposed that the stockpiles and product piles, would be kept to a maximum height of 5 metres, with a level marker located next to the piles. The Design and Access statement submitted with the application states that it is anticipated that the piles would be approximately 4 metres in height for stone and aggregates and 3-4 metres for soil.
13. It is proposed that the majority of materials will be locally transported from and to development sites and would be 'transit tipped' and transported onto a rigid tipper.

#### *Weighbridge and Site Office*

14. As part of the proposal two weighbridges would be installed centrally within the site.
15. The weighbridges would measure 3.61 metres by 8 metres and 3.61 metres by 16 metres.
16. In between the weighbridges it is proposed to locate a site office, made up of an office and WC. The site office would measure 2.74 metres by 7.62 metres. The office is proposed to be clad in aluminium, with aluminium double-glazed windows on the north, south and west elevations. At the time of writing this report, the office and weighbridge have not been constructed.

#### *Access, Vehicle Movements and Parking*

17. As part of the application, it is proposed to extend part of the existing site access in width by approximately 7.3 metres. The transport statement highlights that vehicle access to the proposed development will be from a new designated access road beginning circa 50 metres south along the existing farm private access road.
18. It is proposed that an electric gate is installed on the site access.
19. The application proposes a net 24 two-way increase of movements across a typical day, proposing that vehicle movements would be scheduled outside of typical morning (08:00-09:00) and evening (17:00-18:00) peak hours, avoiding any detrimental impact on the local road network at peak times. Of the net 24 two way increase in movements, there would be a maximum of eight two-way staff movements per day based on four on-site members.

20. The application proposes to include five car parking spaces, along the southern boundary of the application site, southwest of the site offices and weighbridges.
21. The application states that the facility would provide one cycle space.
22. A designated pedestrian route is also proposed from the car parking spaces to the site office.

#### *Hours of Operation*

23. It is proposed that the operations would utilise the following operating hours:
  - Monday – Friday 08:00-16:00
  - Saturday – 08:00-13:00
  - Sunday – No Working

#### *Employment*

24. As part of the application, it is proposed that 3 jobs would be created.

#### *Other Matters*

25. Expression of interest letters were submitted as part of the application from the following three companies summarised below:
  - BASH Skip & Grab Hire Ltd – “interested in using the tipping facility at Winstay Aggregates for inert waste disposal. It would cut down our travel time, fuel consumption and overall carbon footprint. The nearest facility other than here is in Coventry.”
  - Let’s Grab and Plant Hire – “Most of my work is either in Hinckley and surrounding areas or Leicester. Having this yard to tip at would be a great asset to our business. I am currently taking all of my soil waste to a tip at Nuneaton. I feel this is also having a large impact on the environment when our lorries are travelling such a distance and using so much fuel. The added benefit of Winstay Aggregates would mean that all of my waste tipped is recycled. It is not going into land fill. It would be processed and reused as recycled stone or topsoil which my company would then be able to purchase and resell out to our customers, saving on our travelling times and our carbon footprint because we don’t have to travel to a different site to purchase materials that we then sell on.”
  - R&S Grab Hire – “The waste that we tip is from Leicestershire and Earl Shilton and is very much central to our waste disposal activities. Much of the waste we dispose of comes from domestic housing construction sites in and around Leicester and the next nearest tip is at Nuneaton in Warwickshire some 15 miles further South, which would mean saving us a round trip of thirty miles for our vehicles. R&S would also utilise the construction products made by Winstay, and we would purchase both

topsoil and aggregate which we sell on to our own customers, it's very much a mutually beneficial relationship and would further reduce our carbon footprint due to being able to tip a load off and collect a load of recycled aggregate in one journey."

### *Landscaping*

26. As part of the application, it is proposed that a new landscaping bund will be implemented, measuring approximately 3 metres in height, and extending around the north, east and south of the application site. The proposed bund would include a hedgerow, scrub, and woodland mix. In addition, a landscaping bund is proposed along the access road to the west of the weighbridge and site office area, being made up of a hedgerow and woodland mix.
27. The landscaping bund has partially been implemented, extending around the north, east and south of the site, therefore, this aspect of the application would be seeking retrospective permission. The planting of the bund has not been implemented.
28. Tree planting of a woodland mix is also proposed as part of the application along the northern boundary of the soil processing and storage area.

### Biodiversity Impact Assessment

29. As part of the application a biodiversity impact assessment was submitted which discusses the habitats proposed for enhancement and creation.
30. A large proportion of the site is considered of negligible benefit to wildlife as it is hardstanding or sealed surfaces, which includes buildings or roads. Three areas of modified grassland were present on site: south of the site entrance assessed to be in poor condition; north-east of the site assessed as moderate; and south of the site assessed as moderate.
31. The area forming the majority of the eastern extent of the site was bare soil with soil spoil heaps on top at the time of survey, due to the lack of species and diversity, this was assigned as poor condition.
32. A small area of dense common hawthorn dominated scrub was present at the western edge of the site. It scored as poor condition due to the lack of species diversity, lack of established edges, and lack of species age diversity.
33. Hedgerow was located to the northeast of the site and scored as moderate condition.
34. As part of the proposals, the area of hardstanding would be retained and extended, the bare ground would be retained with the west of this area forming

part of the landscaping bund of modified grassland in poor condition. The proposal has the addition of broadleaved woodland to the north-east, and south-west of the site, which is proposed to use native species, and is considered to reach moderate condition. To the west of the site to the south of the access road there will be the addition of a new bund. The “poor” modified grassland would be removed for the bund creation. It would then be reseeded with grass seed to allow for the regeneration into modified grassland (with an area planted with broadleaved tree). This grassland is likely to remain in “poor” condition due to the use as cattle grazing land. Other neutral grassland is proposed to the south-east of the site - sown with Emorsgate EM1 wildflower seed<sup>3</sup> which is successful in fulfilling the requirements for moderate quality neutral grassland in moderate condition. A band of mixed native scrub is proposed to be planted on the bund in the southern area of allocated land in the centre of the neutral grassland. Approximately 9 metres wide with species diversity via the introduction of native species, with the target condition considered moderate. The hedgerow is due to be retained as part of the proposals, a mixed native hedgerow (H3) is proposed to the west of the scrub bund just outside the site boundary. The proposed length is approximately 58 metres and will be planted with a mixed native species composition such as hawthorn, hazel, blackthorn and elder. A second mixed native hedgerow (H2) is proposed to the west of the site, it is proposed to have the same species composition as H3. In the assessment H2 and H3 are indicated to be of good condition, however as a precaution, they have been set to moderate condition as they will mostly be established along site boundaries near grazing cattle.

35. Due to the modest area of land affected, the habitat improvements give a 0.91 credit increase which results in 27.25% increase in area-based habitat biodiversity score. The hedgerow creation gives a 0.64 credit increase which is an increase in score of 14.75%.
36. The above information is based on the biodiversity impact assessment which does not include the updated landscaping proposals that extended the landscaping bund southwards and northwards around the soil processing and store area, which means the scores could be subject to change.

### Noise Report

37. As part of the application, a noise report was submitted to determine the potential noise impact of the proposed development and compares this with existing ambient and background noise levels at the nearest existing residential properties that lie to the north of the development site.
38. The report proposes that the new facility adopt a noise management scheme to implement good measures to minimise extraneous noise from day-to-day activities, it makes reference to the following:

- instruction/induction procedures to all site personnel of the requirement, wherever practicable, to minimise noise emissions;
  - placement of prominent signs at key locations instructing visiting personnel of the need to minimise noise emissions;
  - instruction to visiting drivers to turn off the engines of stationary vehicles;
  - instruction to drivers to use vehicle horns only in cases of emergency;
  - instruction to site personnel to switch off engines of inactive mobile plant.
39. The noise report concluded that the background noise climate in the vicinity of the nearest off-site dwellings is determined by traffic flows on the adjacent A47. For that dwelling within the wider Bracknell Farm site, most noise impact occurs from existing farm activities and the current unauthorised soil and aggregate operations. All of these activities will continue and, consequently, there is unlikely to be any significant change in noise impact for this dwelling with the proposed new development. The proposed development would reconfigure the access to the soil and aggregate operations and shift the access road for these further from the dwelling. On this basis, there may be some marginal reduction in noise impact upon the dwelling with the proposed development. Overall, the assessment determined there would be a low impact at the onsite dwelling at all times of the day, and all offsite dwellings are at significant increased distance and are not expected to be subject to any noticeable noise impact from operations at the proposed new facility.

### Transport Statement

40. As part of the application, a transport statement was submitted. It summarised that Bracknell Farm currently experiences a high level of connectivity via both car and sustainable modes of transport. The site is well connected to the local and strategic road network via the A47 which currently demonstrates that it operates a high level of safety and there is no evidence of any existing road safety problems which would be exacerbated by the proposals.
41. Vehicle access to the proposed development would be from a new designated access road beginning circa 50 metres south along the existing farm private access road.
42. There would be a net 24 two-way movements across a typical day. As the site would process soil and aggregate waste material which would otherwise have been at other sites in the area, many of the HGV trips made to the site are already on the local highway network and therefore not 'new' to the network.
43. The transport statement concluded by stating the proposed development would be in accordance with Paragraph 111 of the National Planning Policy Framework and should be acceptable to Leicestershire County Council as the local highway authority.



## Planning Policy

### The Development Plan

#### 44. Leicestershire Minerals and Waste Local Plan (Adopted September 2019)

- Policy W4: Non-strategic Waste Facilities
- Policy W5: Locating Waste Sites
- Policy DM1: Sustainable Development
- Policy DM2: Local Environment and Community Protection
- Policy DM5: Landscape Impact
- Policy DM9: Transportation by Road

#### 45. Blaby District Council Local Plan (adopted March 2013)

- Policy CS2: Design of New Development
- Policy CS18: Countryside
- Policy CS19: Biodiversity and geo-diversity
- Policy CS21: Climate Change
- Policy CS23: Waste
- Policy CS24: Presumption in favour of sustainable development

#### 46. The Blaby District Local Plan (Delivery) Development Plan Document (Adopted February 2019)

- Policy DM2: Development in the Countryside
- Policy DM8: Local Parking and Highway Design Standards

### National Policy

#### 47. National Planning Policy Framework (NPPF)

- Paragraph 11 - Presumption in favour of sustainable development
- Paragraph 47 - Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

- Paragraph 59 - 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.

48. The National Planning Policy for Waste (2014)

- Sets out detailed waste planning policies and advises that when determining waste planning applications, waste planning authorities should (inter alia): 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; consider the likely impact on the local environment and on amenity; 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. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.

### Consultations

49. **Blaby District Council:** Had limited comments to make from a planning perspective when considering the design of the site and the sustainability of the proposal as these are considered to be satisfactory.
50. **Blaby District Council (Environmental Health):** No objections.
51. Commented that the development site is remote from off-site residential properties, which reduces the potential for significant adverse impacts. The process would be subject to an Environmental Permit from the Environment Agency and a Permit from the Local Authority, both controlling the potential environmental impacts. The Permit would control various emissions from the process. In addition, provided the following comments on the Noise Impact Assessment, that the hours of operation do not appear unreasonable and a complaint investigating procedure would provide a degree of future proofing unexpected impacts, and that planning controls are used to preserve the noise circumstances on site.
52. **Environment Agency:** Proposed development is acceptable subject to a condition relating to a scheme to dispose of foul and surface water and to install petrol/oil separators.
53. **Leicestershire County Council - Ecology:** Commented that the habitats on site are relatively poor, therefore the proposed tree planting, new hedgerow and bund with grassland and scrub will result in an overall net gain for biodiversity. Advise that a condition is attached requiring the submission of a Landscape

Management Plan covering a minimum of a five-year aftercare scheme to ensure the habitats establish.

54. **Leicestershire County Council - Landscape:** No objections.
55. Commented that the revised Landscape and Visual Appraisal (LVA) addresses the initial concerns in relation to seasonal changes. In addition, additional mitigation planting and bunding has been proposed, and the extension of the bund northwards and additional woodland planting incorporated around the east and south of the site, will provide additional screening, especially in relation to the sensitive viewpoints captured by viewpoint 1 and viewpoint 10. It was also acknowledged that during the construction phase there will be some short-term reversible effects where construction activities and plant movements will be visible from a number of receptors. However, the conclusions of the LVA are agreed with, given that the additional mitigation planting and extended bunding, the proposals would not give rise to any unacceptable landscape and visual harm. It would be expected that a comprehensive Landscape Management Plan (LMP) would be provided as part of the application, through a condition, to ensure the successful and rapid establishment and continued thriving of the landscape proposals.
56. **Leicestershire County Council – Highways:** 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, subject to conditions relating to a Construction Method Statement, the highways extension is implemented in full, off street car and HGV parking/loading provision with turning facilities has been provided and a HGV Servicing / Operation Management Plan.
57. **Earl Shilton Parish Council:** Object to the application for the following reasons:
- Planning Policy DM4 'Countryside' is deemed not to have been taken into consideration.
  - Despite the Environment Agency license to operate there is no monitoring regime in place or proposed.
  - HGV traffic impact during peak hours on the A47/Clickers Way roundabout, has not been measured by County Highways
  - Pre-application operational 'consents' and 'conditions' have not been stated which are necessary for this type of business for control purposes to protect the public good.
58. In addition, commented that the Town Council members have noticed this operation literally growing over the past year and have drawn this to the attention of the County Council as the responsible Planning Authority.
59. **Thurlaston Parish Council:** No comments received.

## **Publicity and Representations**

### *Publicity*

60. The application has been publicised by means of 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.

### *Representations*

61. Five representations have been received in relation to the application, shown below, one objecting, two in support and two simply stating no objections to the application. The responses from the objection and support are summarised below:

#### *Objection*

- No certainty of what is being tipped;
- Waste tipping without planning permission and continued operations;
- Landfill sites need topping off with soil without ruining good farmland;
- Working 7 days a week;
- Intolerable noise;
- More flooding if the ground is raised higher;
- Landscaping would take approximately 15 years for the trees to mature to make a screen to hide the result of tipping.

#### *Support*

- Great use of available land which will have a positive effect all round. The land is set back more than far enough to avoid any major disruption to the surroundings, and this could be a great expansion to potentially bring in some more jobs to the area.
- Application should go through simply for the fact there's is a growing need for this infrastructure to supply the demand for hardcore to the needs of the construction industry, also it's a good distance from the village so minimal disturbance and creating jobs for local people.

62. The matters raised are considered in the Assessment of Proposal section of this report.

## **Assessment of Proposal**

63. The application proposes a retrospective change of use of agricultural land to soil and aggregates waste transfer centre (Sui Generis use class) and includes associated works and engineering operations.

Principal of Development – Location

64. The application site lies within the open countryside as defined by the Blaby District Local Plan. As the site sits outside the settlement boundary for Earl Shilton, Policy W4: Non-strategic Waste Facilities and W5: Locating Waste Facilities are the appropriate starting point for assessing this application.
65. The first part of Policy W4 states that planning permission will be granted for new non-strategic waste facilities, including extensions to existing waste facilities, within the following areas taking into account the principles set out in Policy W5:
- 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.
66. The supporting text to Policy W4 provides further clarification on major growth areas stating *“The principal urban areas of the County are at the heart of the planned growth for the County; major growth areas, previously referred to as sustainable urban extensions (SUEs), adjoining these principal urban areas will meet much of the development needs of the County. Thus, most major growth areas will either be within the Broad Locations for strategic waste sites or adjacent to Melton Mowbray or Market Harborough; the exception being the planned growth for Barwell and Earl Shilton. Given the scale of the development set to occur at these locations and the inclusion of new employment land they would also be suitable for the location of new waste facilities.”*
67. Bracknell Farm, as an application site, does not fall within the urban areas of the Broad Locations (in or close to the urban areas of Loughborough/Shepshed, Hinkley/Burbage, Coalville, and close to the urban area of Leicester), in or close to the main urban areas of Melton Mowbray and Market Harborough or within major growth areas. The Earl Shilton and Barwell Area Action Plan (AAP) adopted September 2014, sets out the strategy for future development across the two settlements and defines the SUE for Earl Shilton. The SUE is proposed to the south of Thurlaston Road and to the north of the A47, approximately 600 metres, at its closest, to the application site. As the application site lies within the open countryside and outside the SUE of Earl Shilton it does not accord with Policy W4 part (i) to (iii).
68. The latter part of the Policy W4 relates to new waste facilities, including extensions to existing facilities, outside of the areas mentioned in part (i) to (iii) will only be granted, where they accord with the following:
- a) facilities for the biological treatment of waste including anaerobic digestion and open-air windrow composting;
  - b) the treatment of wastewater and sewage;

- c) landfilling of waste;
  - d) 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 set out above in (i) to (iii).
69. The application proposes a retrospective change of use of agricultural land to a soil and aggregates waste transfer centre (Sui Generis) and includes associated works and engineering operations. It does not accord with Policy W4 parts (a)-(c).
70. Part (d) of Policy W4 requires significant information to be submitted to provide a clear link between the application site and the waste managed, resulting in transport, operational and environmental benefits associated with Policy W5, and the application must demonstrate the overriding need for the development, which cannot be met within the urban areas. The assessment of the above is covered below under a series of sub-headings.
71. The second relevant waste policy is Policy W5, which can also be looked at in two parts. First it states that planning permission will be granted for waste facilities in accordance with the objectives of Policies W3 and W4 upon the following land:
- i. on land with an existing waste management use, where transport, operational and environmental benefits can be demonstrated either as a consequence of proximity to the existing waste management uses or the co-location of waste management facilities;
  - ii. on existing or planned industrial/employment land;
  - iii. on previously developed, contaminated and/or derelict land; and
  - iv. on existing mineral working sites
72. As an application site, it is not land with an existing authorised waste management use, on existing or planned industrial/employment land, on previously development, contaminated and/or derelict or an existing mineral working site. Therefore, this application does not accord with Policy W5 parts (i) to (iv).
73. The second part of Policy W5 states: Land not included in (i)-(iv) above will be considered where there is a clear link between the proposed location and the waste managed which would result in transport, operational and environmental benefits, and there is an overriding need for the development which cannot be met within the urban areas set out in (i)-(iii) of Policy W4. The policy wording in Policy W4 and W5 is replicated, therefore, as with Policy W4, the assessment of the above is covered below under the same sub-headings below.

74. In addition to the above, the supporting text to Policy W5 states that land with an existing waste management use may be the most appropriate for extension or the siting of new facilities – with opportunities for integrated waste management being encouraged to reduce transport requirements and assist improved levels of waste recovery within the main urban areas.
75. The application submission stated that a site of this type would not be preferable within a residential area, and that its inclusion would likely to be restricted and that a proposal to the west of the A47 would not be considered appropriate considering the growth aspiration of Hinckley and Bosworth Council. This is not relevant to the consideration of Policy W4 and Policy W5, and therefore the conflict with these policies remains.
76. In summary, Bracknell Farm, as an application site, does not fall within the urban areas of the Broad Locations (in or close to the urban areas of Loughborough/Shepshed, Hinkley/Burbage, Coalville, and close to the urban area of Leicester), in or close to the main urban areas of Melton Mowbray and Market Harborough or within major growth area – and the application site sits outside the SUE of Earl Shilton. Therefore, the application is in conflict with Policy W4 parts (a)-(c) and Policy W5 parts (i) to (iv) of the Leicestershire County Council Minerals and Waste Local Plan.

Planning Policy Assessment - Clear Link Between Bracknell Farm and the Waste Managed – Assessment of Transport, Operational & Environmental Benefits.

77. Part (d) of Policy W4 and the second part of Policy W5 both require information to be submitted providing evidence of a clear link between the application site/proposed location and the waste managed which would result in transport, operational and environmental benefits.
78. The information submitted as part of the application does not provide a clear link between Bracknell Farm, as the proposed location, and the waste managed. As the application is retrospective, in August 2022, the Waste Planning Authority requested the provision of tickets and information for the current waste that is being imported to the site, where it was coming from and details of it being tipped – this would indicate what link there was between Bracknell Farm and the waste managed. One ticket was received by the Waste Planning Authority. This ticket highlighted that the vehicle was loading at Bracknell Farm, from McDermotts (no address indicated so no details of where the vehicle travelled from), to the place of delivery, which was Austin Way, Longbridge – which on researching is approximately 47 miles (approximately 1 hour 6 minutes by car) away from the application site. As part of the application a map was submitted showing a 30-minute journey time by private vehicle, highlighting the accessibility of the site but there was no evidence to support this – the submitted ticket shows that material from Bracknell Farm was travelling outside of this accessibility area.

79. After receiving a single ticket, further information was requested by the Waste Planning Authority in October 2022 for sufficient and substantial evidence to demonstrate that there is a clear link between Bracknell Farm and the waste managed – evidence of where the material has been coming from and the location it has been distributed to, plus due to the retrospective application, evidence stating where the material would have gone to/collected from instead of Bracknell Farm. In November 2022, an email was received from the agent asking if the enclosed relating to ticketing information, in the form of a spreadsheet, would be suitable for submission. It included information dated from July 2021-September 2021 and stated that the following was incoming to Bracknell Farm:
- 40 ticket entries from 2<sup>nd</sup> August 2021 of topsoil from Newbold Vernon;
  - 27 ticket entries from 27<sup>th</sup> July 2021 of topsoil from Newbold Vernon;
  - 31 ticket entries from 28<sup>th</sup> July 2021 of topsoil from Newbold Vernon;
  - 33 ticket entries from 29<sup>th</sup> July 2021 of topsoil from Newbold Vernon;
  - 30 ticket entries from 30<sup>th</sup> July 2021 of topsoil from Newbold Vernon;
  - 4 ticket entries dated 2x 12<sup>th</sup> July 2021 and 2x 28<sup>th</sup> July 2021 of hardcore from LE2, Earl Shilton and LFE;
  - 18 entries dated from 9<sup>th</sup> July 2021 to 27<sup>th</sup> July 2021 for Soil/mix from Wolvey, Blaby, Burbage, Grendon, Narborough, Sapcote, Bitterswell, Kirkby Mallory, Oadby, Birstall, LE3, Hinkley, Earl Shilton, Birstall and Thurlaston;
  - 5 entries dates 29<sup>th</sup> & 30<sup>th</sup> July 201 for Soil from Oadby, Birstall, LE4, Narborough and Whetstone.

The spreadsheet also included material leaving Bracknell Farm and its end location:

- 9 entries from 8<sup>th</sup> July 2021 for crushed material to Hinckley;
  - 1 entry on 21<sup>st</sup> July 2021 for crushed material to Potters Marston;
  - 54 entries ranging from 27<sup>th</sup> September to 30<sup>th</sup> September 2021 for crushed material to Enderby.
80. What this evidence did not address is the authorised locations the soils and aggregate would have gone to/from instead of Bracknell Farm. As the Waste Planning Authority highlighted throughout the pre-application and submission stage, this information is extremely crucial in confirming a clear link between the application site/proposed location and the waste managed which would result in transport, operational and environmental benefits. In addition, this informal submission also only included information from July, August, and September 2021, which predates the date indicated on the application form for the proposal (4<sup>th</sup> September 2021). No evidence was submitted for the period after October 2021. The spreadsheet submitted did not include additional evidence in ticket format to highlight where the waste was being imported from and exported too.
81. The information is insufficient in providing significant evidence of a clear link between the application site/proposed location and the waste managed which would result in transport, operational and environmental benefits and therefore is not in accordance with Policy W4 and Policy W5 of the Leicestershire Minerals and Waste Local Plan.



82. Despite the application not providing a clear link between the site location and the waste managed, the design and access statement mentions transport, operational and environmental benefits, they are summarised below:
- Reducing highway network impacts;
  - Reducing travel distance, times and, emissions;
  - Improvement in air quality;
  - Reducing the carbon impact from landfill;
  - Meeting the needs and requirements of the local area;
  - Creation of jobs;
  - Economic benefits to site operators – travelling few vehicle miles, increased productivity;
  - Waste hierarchy principles;
  - Protection and enhancement of the natural environment;
  - Improving biodiversity;
  - Minimising waste and pollution.
83. The reduction in highway network impacts, travel distances, times and emissions and the economic benefits to site operators have not been clearly evidenced in this application as the submission does not provide a clear link between the application site and the waste managed. Therefore, the benefits are unclear as no evidence has been provided on where this material would be going instead of Bracknell Farm. As the application is retrospective, evidence of the benefits of utilising Bracknell Farm as a waste transfer station should have been submitted as part of the application. It is acknowledged that if the application were to be approved, there would be a net-gain in biodiversity, although this is viewed as negligible, as the landscaping and proposed planting would be required to mitigate the impacts of the development and does not overcome the harm of the proposed location. However, as the information submitted does not provide a clear link between the site and the waste managed, no transport, operational and environment benefits can be justified.
84. As part of the application, letters expressing interest were submitted by three companies: BASH Skip & Grab Hire Ltd, Let's Grab Plant Hire and R&S Grab Hire. These letters provided information on where the companies take their material, examples being Coventry, Hinckley and the surrounding areas, Leicester, and Nuneaton. The material associated with these companies and Bracknell Farm is construction and demolition material, and it is unclear from the letters why alternative waste transfer stations in Leicestershire which are closer have not been utilised, and why Bracknell Farm would be utilised. The location of R&S is unclear from researching, with Plant Hire based in Sapcote and BASH located in Lutterworth, Bracknell Farm would not be the closest Waste Transfer Station within Leicestershire. What must be noted is that these letters are expression of interest only, no formal contracts have been agreed and submitted as part of the application, so there is no guarantee these companies would utilise

the application site even if it were to receive planning permission. These letters do not overcome the policy conflict.

85. The design and access statement concluded that the application should “be approved without delay in accordance with the NPPFs presumption in favour of sustainable development.” The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay, but where a planning application conflicts with an up-to-date development plan permission should not usually be granted.
86. The application does not provide sufficient and substantial evidence supporting Bracknell Farm as a sustainable location for a waste transfer facility, the information submitted provides limited support for the need for the development, as well as little to no evidence for a clear link between the site and the waste managed. In turn this restricts the amount of weight given to the comments relating to the proposed benefits. The application itself states that the location of the site lies adjacent to proposed major growth areas for the Earl Shilton, however, as an application site it sits outside the SUE of Earl Shilton (approximately 600 metres, at its closest, to the application site) and therefore, as the site does not fall within the Sustainable Urban Extension area of Earl Shilton it is in conflict with Policy W4 part (a)-(c) and Policy W5 parts (i) to (iv) of the Leicestershire County Council Minerals and Waste Local Plan.

#### Planning Policy Assessment - Need for the Development

87. It is the objective of the Minerals and Waste Local Plan to enable the delivery of sufficient new waste management capacity equal to the waste arising in Leicestershire and to allow waste management in the County to move greater amounts of waste away from disposal. The plan states that “For Construction and Demolition (C&D) waste, existing operational recycling capacity together with sites permitted for C&D recycling but not yet operational, would be sufficient to meet off-site recycling requirements throughout the plan period assuming that there will be no growth in arisings.” As the plan highlights there is currently not a shortfall and a need for additional C&D recycling capacity. Therefore, the application for a retrospective change of use of agricultural land to soil and aggregates waste transfer station on land falling outside of policy compliance is not required.
88. Policies W4 and W5 of the Leicestershire Minerals and Waste Local Plan also state that applications must demonstrate the overriding need for the development, which cannot be met within the urban areas.
89. In addition to the above information, as part of the application, there has been no direct reference, or substantial information which relates to the need for Bracknell Farm as a Waste Transfer Station within the wider need for Leicestershire. What the application stated was that there are no alternative soil and waste material

recycling facilities close to Earl Shilton. The Design and Access Statement highlights the following sites as alternative sites and details about them:

- Wanlip Sand and Gravel - sits outside a 30-minute car journey time from Earl Shilton but also discourages mixed loads;
- Aggrecycle - discourage mixed wastes;
- Midland Rock - discourage mixed wastes;
- WCL Quarries – not currently taking on new customers;
- MAC Group;
- Brinklow Quarry - weather dependent and furthest from the site by distance and journey time.

90. With regards to the above information, there is a lack of evidence within the submission on where this information has been gathered. A number of the alternative sites listed have been referred to as discouraging mixed loads. However, as detailed above in this report the spreadsheet provided by the applicant in November 2022 provided ticketing information in the form of a spreadsheet and, of the 188 records of material into the site, 17 were of a mixed load (approximately 9%). There is no evidence to suggest that the remaining 91% of the material bought into Bracknell Farm could not be dealt with at an alternative Waste Transfer Station.
91. For completeness, and in addition to the sites listed above there are numerous other sites within Leicestershire that recycle, process and store inert materials and contribute to meeting Leicestershire's existing operational recycling capacity for C&D waste. Excluding two already listed above, there are an additional three sites within less than approximately 17 miles of the application site. Therefore, there are authorised sites within the vicinity of Bracknell Farm that have planning permission to deal with the C&D recycling need.
92. The application also included a 30-minute journey time by private vehicle produced by the transport consultants, highlighting the accessibility of the site. What is evident from the map is that the application site is within a 30-minute radius from the broad locations of Coalville, Hinckley and close to the urban area of Leicester, all areas where locating Strategic and Non-Strategic Waste Facilities would be compliant with the relevant policies.
93. In summary, there is currently sufficient existing operational recycling capacity for C&D recycling to meet the needs within the plan period for Leicestershire. In addition, the application information submitted does not provide sufficient evidence to highlight that there is an overriding need for a waste transfer station at Bracknell Farm, or that this need cannot be met with the preferred locations for waste facilities.
94. Overall, it is clearly demonstrated above that the application site as a location does not accord with Policy W4 parts (a)-(c) and Policy W5 parts (i) to (iv) of the

Leicestershire County Council Minerals and Waste Local Plan. In addition, the information submitted does not provide evidence of a clear link between the proposed location and the waste managed which would result in transport, operational and environmental benefits as well as demonstrating that there is an overriding need for the development itself. Therefore, the application is recommended for refusal as it does not accord with Policy W4 and W5 of the Leicestershire County Council Minerals and Waste Local Plan.

95. Policy CS18 of the Blaby District Council Local Plan (adopted March 2013) and Policy DM2 of the Blaby District Local Plan (Delivery) Development Plan Document (Adopted February 2019) both relate to development in the Countryside stating that where areas are designated as Countryside, planning permission will not be granted for development which would have a significantly adverse effect on the appearance or character of the landscape. The proposal for a retrospective change of use of agricultural land to soil and aggregates waste transfer centre (Sui Generis use class) and included associated works and engineering operations is not compatible with Policy W4 and W5 of the Leicestershire County Council Minerals and Waste Local Plan. The site lies within the open countryside and the proposal for a waste transfer station does not in keep with the appearance and character of the existing landscape and therefore does not accord with Policy CS18 of the Blaby District Council Local Plan and Policy DM2 of the Blaby District Local Plan (Delivery) Development Plan Document.
96. The development, as proposed, results in an unacceptable form of development in the open countryside, detrimental to the character of the locality and an unsustainable form of development contrary to Policy DM1 and DM2 of the Leicestershire County Council Minerals and Waste Local Plan.

#### Landscaping and Visual Amenity

97. As part of the application the following landscaping aspects were proposed initially:
- A landscaping bund, including natural grassland and mixed shrub, measuring approximately 3 metres in height, and extending partially around the southeast corner of the application site, and the proposed soil processing and store area, but not adjoining the northern boundary.
  - Tree planting, including other woodland, broadleaves along the northern boundary.
  - A landscaping bund, of modified grassland and other woodland, broadleaved, to the south of the access site as it adjoins the wider application site.
98. In October 2022, a letter was sent from the Waste Planning Authority stating that further information would be required in order to assess whether the development is acceptable in relation to landscaping and visual amenity. The submission

lacked a detailed landscaping scheme, a comprehensive landscape management plan and a full visual assessment, especially in relation to two significant viewpoints, specifically viewpoint 1 (from Thurlaston Lane - elevated position) and viewpoint 10 (from Earl Shilton Road - elevated position). There was also the lack of visual effects for the seasonal changes, the impact of the development would be significantly greater during the winter period.

99. In February 2023, additional information was submitted in relation to the concerns listed above, the following landscaping aspects are now proposed:

- The proposed 3 metre landscaping bund would extend around the northern, eastern, and southern boundary of the soil processing and store area, made up of dense scrub mix and woodland grass seed mix;
- Tree planting, of a woodland mix, would be to the northern part of the soil processing and store area;
- A landscaping bund, of woodland mix and hedgerow mix, to the south of the access site as it adjoins the wider application site.

100. A representation was received in relation to the landscaping taking approximately 15 years to mature and create a screen to hide the result of tipping. It is acknowledged that the planting landscape and grass seeding would require time to mature, the additional information would result in the appropriate measures being included within the submission to lessen the impact of the development on the surrounding environment, through effective and well-designed landscaping bunds and vegetation for screening purposes.

101. It should be noted that the current unauthorised development is having an impact on the appearance of the locality. However, if the application were to be approved measures could be introduced to reduce aspects of the visual impact to accord with Policy DM5 of the Leicestershire County Council Minerals and Waste Local Plan.

### Highways

102. As part of the application, it is proposed to extend part of the existing site access in width by approximately 7.3 metres. Vehicle access to the proposed development will be from a new designated access road beginning circa 50 metres south along the existing farm private access road (TS).

103. In addition, according to the transport statement submitted with the application, the wider Bracknell Farm site currently generates an average of 104 two-way movements per day, this includes the businesses that currently exist on site – examples including the dairy production and a flower retailer. The existing and unauthorised waste transfer centre generates approximately 24 two-way movements per day made up of HGV movements, proposed to be scheduled outside of typical morning (08:00-09:00) and evening (17:00-18:00) peak hours,

avoiding any detrimental impact on the local road network at peak times, and a maximum of 8 two-way staff movements per day. The Local Highways Authority are satisfied that the movements and trip generation could be secured by condition should the application be approved.

### *Parking*

104. In addition, the application includes the implementation of five car parking spaces and one cycle space. The car parking details are stated to be 2.4 metres x 5.5 metres with an additional 0.5 metres if bounded by a wall, fence, hedge line or trees or other similar obstruction on one side, one metre if bounded on both sides. Because of this, the Local Highways Authority would be satisfied that if the application were to be approved, the car parking spaces could be conditioned.
105. Due to the nature of the application and the site, the anticipated visitor trips would be irregular.

### *Internal Layout*

106. The Local Highways Authority stated that they would not normally support proposed development that do not provide adequate HGV parking provision. However, due to the operation the LHA would have no objections if the application were to be approved providing a condition was implemented relating to a site operations and management plan.
107. Overall, if the application were to be approved the Waste Planning Authority is satisfied that the application would not give rise to any unacceptable highways impacts subject to the conditions relating to trip generation, car parking spaces, site operations and management plan, and therefore the application would be in accordance with Policy DM9 Of the Leicestershire County Council Minerals and Waste Local Plan.

### Noise, Dust and Odour

108. As part of the application, a noise report was submitted to determine the potential noise impact of the proposed development. The scheme recommends that the facility adopt a noise management scheme including, but not limited to, switching off engines when not in use, placement of signage, a complaints procedure, and an induction of site personnel. The overall conclusion of the noise report was that there would be low impact at the onsite dwelling at all times of the day, and all offsite dwellings are at significant increased distance and are not expected to be subject to any noticeable noise impact from operations at the proposed new facility.
109. A representation was received in relation to the application in relation to intolerable noise. In addition, throughout the process of operating unlawfully the

site has been subject to ongoing noise complaints and investigation. The nearest residential property outside of the wider farm site lies approximately 380 metres to the north of the site on Clickers Way. Further residential properties are located approximately 500 metres to the southeast of the site on Earl Shilton Road. However, the site can be viewed from Earl Shilton Road and Thurlaston Lane. The Environmental Health Officer from Blaby stated that the site is remote from off-site residential properties, which reduces the potential for significant adverse impacts. If the application were to be approved, conditions relating to the impact of noise and dust on the local environment would need to be secured. Although the current environmental impacts of the development on the surrounding area is of a concern, this is not a reason for refusing the application as it is believed that the impacts could be reduced and not provide a significant harm to the local community or amenity with the appropriate mitigation measures through landscaping, and conditions relating to noise and dust controls.

### Ecology

110. As part of the application, a biodiversity impact assessment was submitted, concluding that the habitat improvements proposed would result in an approximate 27.25% increase in habitat biodiversity score. The hedgerow creation gives a 0.64 credit increase which is an increase in score of 14.75%. However, the Leicestershire County Council Ecology Officer commented that the current habitats on site are relatively poor, and the proposed planting of trees, shrubs and grassland would result in an overall net gain for biodiversity. There are therefore no concerns in this regard, although should the application be approved a condition requiring the submission of a Landscape Management Plan covering a minimum of a five-year aftercare scheme to ensure the habitats establish would need to be included, and this would meet the satisfaction of the LCC Ecology Officer.

### Other Matters

#### *Unauthorised Development*

111. Although the application form states that the development commenced on 4<sup>th</sup> September 2021, it is known that operations commenced sooner than that as a site visit was undertaken in August 2021 in response to the unauthorised development being drawn to the Waste Planning Authority's attention. Throughout the application process the applicant has continued to operate. Numerous written and verbal correspondence has been exchanged between Leicestershire County Council, the agent, and the site owner to continue to reiterate that the site does not have planning permission and that the operations are unauthorised and should cease until any planning permission is granted (whilst stating that this was not an indication that the existing planning application would be successful). It was indicated on multiple occasions by the applicant and agent that the operations on site had ceased. However, it was evident that this

was not the case as Leicestershire County Council undertook drive-by and unannounced visits and received numerous calls from residents stating that the operations were ongoing and at times had intensified.

### *Insufficient and Missing Information*

112. As part of the submitted documentation for the application there were some discrepancies with the information, including: the site plan drawing states 2 x weighbridges, whereas the Design and Access Statement (D&A) highlights just 1 x weighbridge; the site office states no height measurements; there is no distance listed from the electric gates to the highway; no details of the location of the cycle spaces; and the D&A states that 4 jobs would be created compared to the application form which mentions 3 employees are proposed.

### Remedy to Unauthorised Development

113. The development that is occurring has now persisted for over eighteen months. It has resulted in the establishment of a waste transfer station within the open countryside, which is a non-strategic waste facility outside the settlement boundary for Earl Shilton. The proposed development shows no clear link between the proposed location and the waste managed that would result in transport, operational and environmental benefits, nor that the overriding need for the development cannot be met within the urban areas.
114. Therefore, in addition to a refusal of planning permission for this development, it is further recommended that the Council undertakes enforcement action to cease the use, removal of all waste materials, machinery and other chattels placed on the land associated with the waste transfer centre and the reinstatement to its previous condition.

### Conclusion

115. The application proposes a retrospective change of use of agricultural land to soil and aggregates waste transfer centre (Sui Generis use class) and includes associated works and engineering operations.
116. The application site falls in the countryside, outside the urban areas of the Broad Locations (in or close to the urban areas of Loughborough/Shepshed, Hinkley/Burbage, Coalville, and close to the urban area of Leicester), in or close to the main urban areas of Melton Mowbray and Market Harborough or within major growth areas. The Earl Shilton and Barwell Area Action Plan (AAP) adopted September 2014, sets out the strategy for future development across the two settlements and defines the SUE for Earl Shilton. The SUE is proposed to the south of Thurlaston Road and to the north of the A47, approximately 600 metres, at its closest, to the application site. The application site lies within the open countryside and outside the SUE of Earl Shilton.



The information submitted as part of the application does not provide a clear link between the operation and the waste managed. There is little to no evidence as to where waste was being imported from and exported too, despite the application being retrospective.

117. In addition, as part of the application, there has been no direct reference, or substantial information which relates to the need for Bracknell Farm as a waste transfer station within the wider need for Leicestershire. There is currently sufficient existing operational recycling capacity for C&D recycling to meet the needs within the plan period for Leicestershire. In addition, the information submitted does not provide sufficient evidence to highlight that there is an overriding need for a waste transfer station at Bracknell Farm, or that this need cannot be met within policy compliant locations for waste facilities.
118. Whilst the locational visual harm could be reduced through landscape mitigation, it does not outweigh the unsustainable location that is contrary to Policy W4 and Policy W5.
119. The development, as proposed, therefore, results in an unacceptable form of development in the open countryside, detrimental to the character of the locality and an unsustainable form of development contrary to policies DM1, DM2, W4 and W5 of the Leicestershire Minerals and Waste Local Plan (2019), policies CS1 and CS18 of the Blaby District Council Local Plan and Policy DM2 of the Blaby District Local Plan (Delivery) Development Plan Document (2019).

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

120. In determining this application, the Waste Planning Authority (WPA) has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and all valid representations that have been received. The WPA has provided the applicant with the opportunity to make a case on policy related issues. 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 policy conflict as identified in the reasons for refusal.

### **Recommendation**

1. REFUSE subject to the reasons set out in Appendix A.
2. Issue enforcement notice (and/or any other similar notices as may be considered appropriate by officers) to rectify breach of planning control.

**Officer to Contact**

Katie Ferguson (Tel: 0116 305 7325)

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

**Reason For Refusal**

1. The site is located within the open countryside as defined by policy CS1 and CS18 of the Blaby District Council Local Plan. Waste transfer operations can be considered acceptable subject to the provisions of policies DM1, DM2, W4 and Policy W5 of the Leicestershire Minerals and Waste Local Plan. Policy W4 allows for the provision of waste transfer facilities in defined Broad Locations for Waste Facilities; namely in, or close to, the urban areas of Loughborough/Shepshed, Hinckley/Burbage and Coalville, close to the urban area of Leicester, Melton Mowbray and Market Harborough or within major growth areas. The site is not located within one of these nominated areas and therefore does not comply with policy W4. Policy W5 further allows for waste facilities where they are on land with an existing waste management use, where transport, operational and environmental benefits can be demonstrated, either as a consequence of proximity to the existing waste management uses, or the co-location of waste management facilities, on existing or planned industrial/employment land, on previously developed, contaminated and/or derelict land and on existing mineral working sites. The site does not comply with these criteria. Moreover, there is currently sufficient existing operational recycling capacity for construction and demolition waste to meet Leicestershire's needs within the Minerals and Waste Local Plan period. Bracknell Farm does not have proven links as a proposed waste transfer centre to the waste managed, nor justify an overriding need for the development that cannot be met within policy compliant location for waste facilities. As such the development is contrary to the provisions of policy W5. The development, therefore, results in an unacceptable form of development in the open countryside, detrimental to the character of the locality and an unsustainable form of development contrary to policies DM1, DM2, W4 and W5 of the Leicestershire Minerals and Waste Local Plan (2019), policies CS1 and CS18 of the Blaby District Council Local Plan and Policy DM2 of the Blaby District Local Plan (Delivery) Development Plan Document (2019).

This page is intentionally left blank