

MINERAL PLANNING AUTHORITY CONSULTEE RESPONSE

APPLICATION DETAILS:

Date of Response:	1 September 2026
Planning Application Number:	25/00692/FUL
LCC Reference Number:	2025/3475/04
Description of Application:	Installation and operation of a ground-mounted solar farm with associated infrastructure for a period of 40 years
Location of Application:	Land at Heath Road, Bagworth Heath, Bagworth, Leicestershire

Thank you for your re-consultation in respect of the above planning application. This response is provided in supplement to those dated 22 October 2025, and 2 April 2026, and aims to clarify and solidify the County Council's position as the Minerals and Waste Planning Authority (MWPA) in light of the recent publication of the new National Planning Policy Framework (NPPF) on 18 August 2026

Upon review, there are two matters which require clarification / correction. Firstly, the previously provided citations to the relevant national policies must be updated in light of the publication of the revised NPPF (2026) and secondly, the degree to which policies M11 and M12 of the Leicestershire Minerals and Waste Local Plan (LMWLP) can be relied upon when considered against the updated mineral policies – M1 to M6 – in the NPPF.

1. Update on National Policy References

The MWPA responses dated 22 October 2025, and 2 April 2026 referenced the now archived NPPF (version dated December 2024) paragraphs 223(c), 224–227, and footnote 81 related to paragraph 227(c). In the revised NPPF the minerals chapter is now organised into lettered policies M1–M6 instead of numbered paragraphs. The essence of the earlier references remains unchanged, and further correspondence regarding this application should use the current lettered policies as follows:

- 25-year brick clay landbank requirement (previously paragraph 227(b), footnote 81 or para. (c)): now NPPF Policy M1(3)(b)(iii).
- Provision of brick clay from multiple sources (previously paragraph 227 d)): now NPPF Policy M1(3)(c).
- Prohibition of non-mineral development from constraining future work within an MSA (formerly paragraph 225): now NPPF Policy M6(1)(a).

- Safeguarding of mineral resources and protection of existing, planned, and potential minerals infrastructure (formerly paragraph 223(c)): now NPPF Policy M6(1)(a) and (b).

Substantial weight accorded to the benefits of mineral development: now NPPF Policy M3(1).

2. Compatibility of LMWLP Policies M11 and M12 with the NPPF (2026)

It is necessary to be precise about how much protection policies M11 and M12 of the LMWLP can give to the identified reserves of brick clay, as the site for the proposed solar farm is not within a Mineral Safeguarding Area (MSA) nor is there an existing permission for brick clay extraction on the application site. Notwithstanding this, the proposal lies adjacent to an area with an extant planning permission (ref. 2018/CM/0110/LCC, superseded by ref. 2024/EIA/0081/LCC). Additionally, the compatibility of these policies with those in the NPPF should be considered as Annex A of the new NPPF (2026 states) that *“Development plan policies (or parts of those policies) which are materially inconsistent with national decision-making policies in this Framework should be given very limited weight.”*

Policy M11 protects mineral resources only within the MSAs shown on the figures/maps within the LMWLP, which is consistent with NPPF Policy M6(1)(a), which is also specifically limited to MSAs. However, as the application site is not designated as an MSA for brick clay, Policy M11 does not apply to the clay resource, despite its established presence. Local and national policies are consistent in this aspect – both limit this protective measure to designated areas – and it is considered by the MWPA that previous assertions that the “principles” of Policy M11 being applicable to this development is incorrect in this instance as it goes beyond the scope of policy, which has a clear trigger point as to when it should be given weight in decision making.

Policy M12 safeguards “significant infrastructure that supports the supply of minerals” and “existing mineral site[s]” from incompatible land uses nearby. Its counterpart in the NPPF, Policy M6(1)(b), similarly aims to protect existing, planned, and potential sites for the bulk transport and handling of minerals. Both policies are primarily intended to safeguard active operational sites and infrastructure rather than reserving unpermitted land for future extraction. Applying Policy M12 to safeguard future extraction beneath the application site – an area that was explicitly excluded from the 2018 permission due to not being immediately required to maintain mineral reserves – extends the policy's interpretation beyond its intended scope, similar to Policy M11 previously discussed.

Therefore, this results in a policy gap between the protective capabilities of the LMWLP and the current NPPF and the level of protection warranted by this specific situation: a geologically proven reserve, confirmed by the operator, located directly adjacent to a permitted and operational brickworks. This land was previously identified but deferred for extraction due to a lack of immediate need, rather than being deemed unviable for extraction, and it now faces the risk of long-term sterilisation /

inaccessibility due to a proposed 40-year non-mineral use. Neither Policy M11 nor Policy M12, when interpreted strictly, can adequately address this, which limits the weight that can be afforded to them in the determination of this planning application.

Other Policy Considerations

Policy M6(3) of the NPPF (2026) states that *“The prior extraction of minerals, where practical and environmentally feasible, should be supported where it would prevent the sterilisation of minerals deposits as a consequence of other forms of development proposals or allocations.”*. The scope of this policy differs from that of policy M11 of the LMWLP and M6(1)(a) of the NPPF (2026) as it applies wherever non-mineral development risks sterilising a mineral deposit, regardless of MSA designation.

It should be noted that Policy M6(3) has duty to support the prior extraction of minerals, where practical and feasible, rather than as a threshold test for refusing non-mineral development outright. As such, it requires the consideration of whether prior extraction or a phased development (e.g. prior extraction followed by the solar development, reduced duration of the solar farm or a more easily reversible scheme to preserve future access to the mineral deposit) are realistic alternatives, weighed in the planning balance.

Based on the available evidence, prior extraction could be feasible and practical due to being identified in the 2018 scoping opinion for the subsequently approved extension. However, this area was not included in the 2018 planning application, for reasons detailed previously, and no planning application to further extend the extraction area has been submitted to the Mineral Planning Authority.

3. Impact on Desford Brickworks

Taking the above into account, given the protection gap between policies M11 & M12 with the new NPPF (2026), the MWPA considers that the potential serialisation of an identified viable mineral resource – designated as one of national importance in the NPPF – is a significant material planning consideration (rather than direct policy conflict as previously stated) to be weighed against the proposed project's benefits in the overall planning balance, taking into account the following points:

- A confirmed resource of 13.6 million tonnes of viable mudstone (brick clay) beneath the application site, verified through geological investigations conducted by Forterra Building Products Ltd, the operator of the adjacent Desford Brickworks.
- Proximity to the existing, permitted extraction area (ref. 2024/EIA/0081/LCC), which supplies an estimated 16.7 years of material, indicating that the resource beneath the application site offers a logical next phase of extraction once the existing permission is fully utilized.
- Prior identification of this land in the 2018 application (ref. 2018/CM/0110/LCC) as a suitable future extraction area, excluded solely due to its timing rather than its appropriateness.

- A tightening supply situation reflected in recent closures across the county, including Shepshed Quarry and Brickworks, highlighting the strategic importance of reserves near Desford.
- The proposed operational life of the solar farm for 40 years, which eclipses the 16.7-year permitted extraction period, effectively precluding access to the resource for a generation, despite the temporary and reversible nature of solar development.

Additionally, the granting of planning consent for any other use or development adjacent to the existing brickworks and permitted extension area should ensure that it does not constrain the operation of the brickworks or adversely impact the operators ability to comply with the planning conditions attached to its consent, particularly as extraction of the brick clay causes dust arisings which may affect the efficiency of the photo-voltaic panels. Whilst there are conditions related to this in the 2018 & 2024 permissions, adequate mitigation measures may be required for the solar farm itself.

Conclusion

Taking the above assessment into account, the MWPA considers that the proposed solar farm does not result in a direct conflict with Policies M11 & M12 of the LMWLP due to the application site not being in an MSA for Brick Clay and the circumstances of the proposal extend beyond the intended scope of these policies. Furthermore, the limitations of the policies when considered against the provisions of the updated NPPF (2026) reduce the weight that can be afforded to them in the determination of this application.

Nevertheless, the presence of a proven and potentially viable brick clay resource beneath the site, its relationship to the adjacent permitted extraction areas and Desford Brickworks, and the potential for the proposed 40-year development to sterilise or delay future mineral extraction, remain important material planning considerations. These matters should therefore be carefully weighed in the planning balance by the Local Planning Authority alongside the environmental, economic and energy generation benefits of the proposed development when determining the application.

Yours Sincerely

R Tollyfield

Rob Tollyfield
Planning Officer