

**DEVELOPMENT CONTROL AND REGULATORY BOARD****10th September 2020****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2020/0632/02 (2020/VOCM/0017/LCC) – 5th February 2020
- PROPOSAL:** Variation of condition 3 of planning permission 2016/1659/02 (2016/CM/0182/LCC) to allow a maximum throughput of waste of 110,000 tonnes per annum.
- LOCATION:** Granite Way, Mountsorrel, LE12 7AH (Charnwood Borough).
- APPLICANT:** Mick George Ltd
- MAIN ISSUES:** Impact of the proposal upon the amenity of nearby properties, the appropriateness of the increased throughput of this operation at this specific location and impact upon the local highway.
- RECOMMENDATION:** REFUSE on grounds of:
- (i) Conflict with the locational policies of the Leicestershire Minerals and Waste Local Plan which seeks to locate new waste developments within or around the main urban areas.
 - (ii) Insufficient information to assess the impact of noise on local amenity.

Circulation Under the Local Issues Alert Procedure

Mrs H Fryer CC.

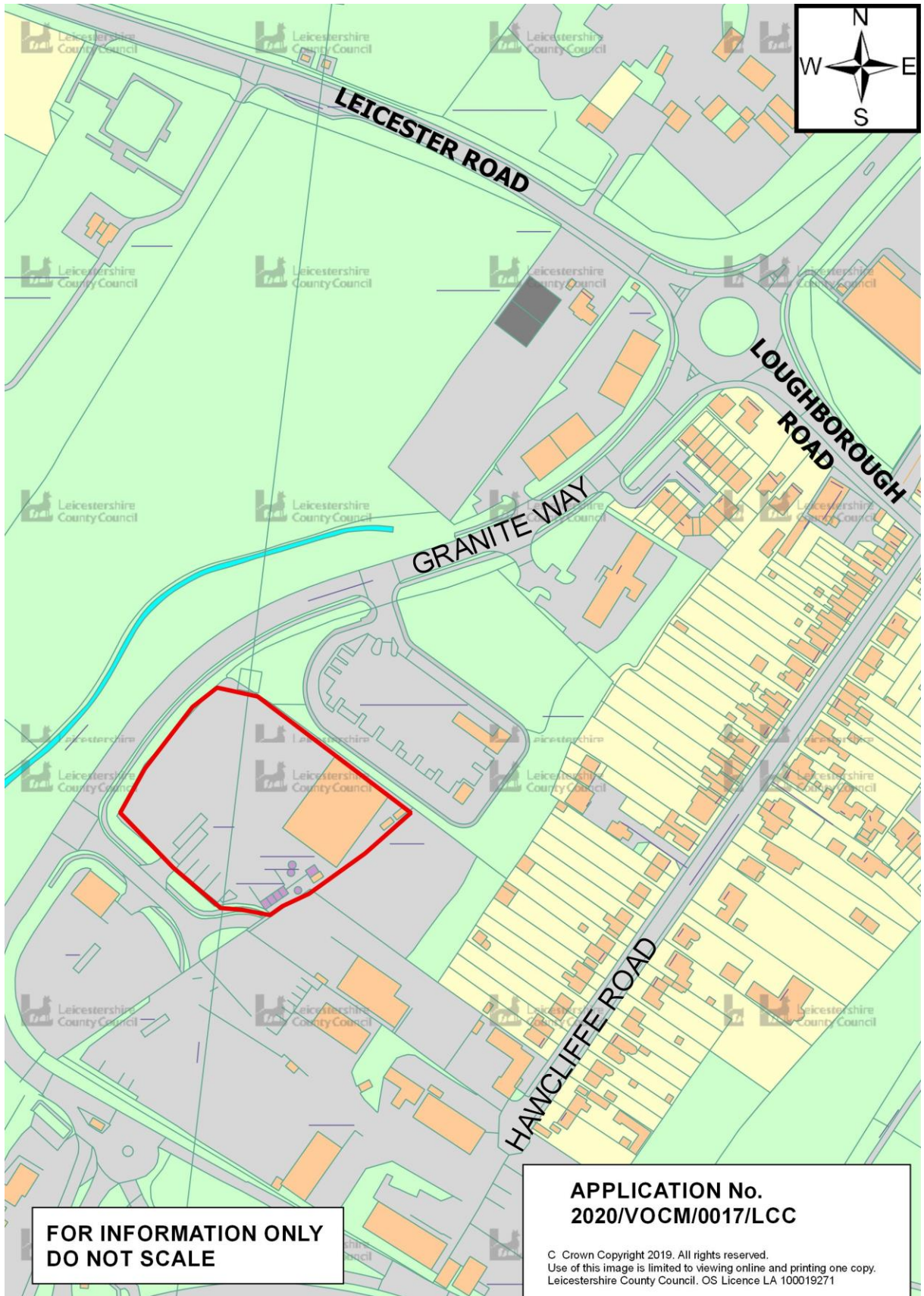
Officer to Contact

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PART B – MAIN REPORT

Site Location

1. The site is an existing Waste Transfer Station located off Granite Way, which lies in the North End area of the village of Mountsorrel, connecting Mountsorrel Quarry with the A6 roundabout.
2. The site is bordered by Mountsorrel Recycling and Household Waste Site to the north, a Cargo and Freight Company to the south, and the Leicestershire County Council highways depot to the east. Beyond these immediate neighbours are offices and residential receptors to the north and east, the Mountsorrel quarry complex to the south, and countryside to the west.
3. Residential receptors are located on Pawley Close, Hawcliffe Road, and Woodward Close. The closest properties are located on Pawley close, which is off Hawcliffe Road, approximately 50 meters to the east of the site. Access to Woodward Close is directly off Granite Way, which is the HGV route for both the site and neighbouring uses, and the first property (1 Woodward Close) is circa 20 meters from the road.
4. In addition, planning permission has recently been granted (Ref: P/19/1363/2 - October 2019) by Charnwood Borough Council for a mixed-use scheme including 9 dwellings on land adjacent to Granite Way, at the roundabout junction of Granite Way and Loughborough Road (currently a vacant area of grassland adjacent to an existing Waitrose retail store), which will introduce further residential receptors in close proximity to the HGV route .
5. The site is located within an Air Quality Management Area (AQMA) referred to as 'Mountsorrel' which was declared in 2011 by Charnwood Borough Council due to a predicted exceedance of the National Air Quality Objective for fine particulate matter (PM₁₀).
6. There are no statutory ecological designations within the application site. There are three Sites of Special Scientific Interest (SSSI) within a 1km radius, the closest being Buddon Wood and Swithland Reservoir SSSI, which is circa 380m to the west. Main Quarry, Mountsorrel SSSI lies circa 630m south east and Barrow Gravel Pits SSSI is circa 700m north.
7. There are no Listed Buildings, Scheduled Monuments or Registered Parks and Gardens within or in close proximity to the application site. Mountsorrel Conservation Area is circa 450m south east at its closest point, and the nearest Listed Building is Stonehurst Farmhouse (Grade II), circa 520m south east.
8. The application site falls into Flood Risk Zone (FRZ) 1, the lowest designated zone of fluvial flooding.



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**APPLICATION No.
2020/VOCM/0017/LCC**

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Planning History

9. Planning permission was granted by Leicestershire County Council in June 2017 (Reference 2016/1659/02) for a Waste Transfer Station including concrete batching plant and overnight parking of HGVs.
10. Condition 3 of the permission stipulates that the development permitted shall be limited to a maximum throughput of waste of 50,000 tonnes per annum.

Description of Proposal

11. The proposal is to vary condition 3 of planning permission 2016/1659/02 (2016/CM/0182/LCC) to allow an increase in waste throughput from 50,000 to 110,000 tonnes per annum at the permitted and operational Waste Transfer Station on site.
12. According to the applicant, the increased throughput would allow the operator to accommodate additional waste streams from a contract with Leicestershire County Council that they are currently tendering for, which requires the ability to process 75,000 tonnes of council waste per annum in the form of Primary Waste (black bag) and Secondary Waste (bulky HWRC). The company also handle around 25,000 tonnes of existing skip waste at the site.
13. It is proposed that the additional throughput being sought would be transported by vehicles with a greater payload (12 tonnes rather than 4.5 tonnes per load), which would typically equate to an additional 20 loads (40 movements) per day. Therefore, if approved, the total movements per day for the site as a whole (including ready mixed concrete production) would be 180 movements (i.e. 15 per hour over 12 hours).
14. The proposal does not seek to alter any other condition; therefore, hours of operation would remain as permitted.
15. An Air Quality Assessment has been submitted in support of the application due to the potential for the proposals to cause air quality impacts as a result of the proposed increase in HGV movements. The assessment states that the effects of the proposed increase in HGV movements would be 'negligible' at all receptor locations, and that overall potential air quality impacts would be 'not significant'.

Planning Policy

National

16. The revised National Planning Policy Framework (NPPF) was published 19 February 2019 and sets out the Government's planning policies for England. At the heart of the NPPF is a presumption in favour of sustainable development, namely the economic, social and environmental roles, and the need to balance economic growth with the protection and enhancement of the environment.
17. Paragraph 2 states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise.

18. Paragraph 170 advises that planning decisions should contribute to and enhance the natural and local environment by, among other criteria, e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
19. Paragraph 180 states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.
20. Paragraph 183 states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.
21. *The Waste Management Plan for England 2013 (WMPE)* sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. It states that positive planning plays a pivotal role in delivering the country's waste ambitions through (inter alia): delivery of sustainable development and resource efficiency including provision of modern infrastructure and local employment opportunities, and by helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.
22. The National Planning Policy for Waste 2014 (NPPW) document sets out detailed waste planning policies relating to the provision of waste local plans and for the determination of planning applications. In determining planning applications, waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

Development Plan

23. Leicestershire Minerals and Waste Local Plan (adopted September 2019):

- Policy W1: Waste Management Capacity;
- Policy W3: Strategic Waste Facilities;
- Policy W5: Locating Waste Facilities;
- Policy DM1: Sustainable Development;
- Policy DM2: Local Environment and Community Protection;
- Policy DM7: Sites of Biodiversity/Geodiversity Interest;
- Policy DM8: Historic Environment;
- Policy DM9: Transportation by Road;
- Policy DM11: Cumulative Impact.

24. Charnwood Local Plan 2011 to 2028 Core Strategy (adopted November 2015):

- Policy CS 17 Sustainable Travel;
- Policy CS 25 Presumption in Favour of Sustainable Development.

Consultations

25. **Charnwood Borough Council (Planning):** No objection.

26. **Charnwood Borough Council (Environmental Health):** Comments.

Noise

The Environment Health Officer (EHO) made the following comments during the initial consultation period: "I would confirm that this department is currently investigating noise nuisance complaints from the site. Whilst these complaints are primarily related to the cement batching activity any intensification has the potential to cause further disturbance to local business operators. The application indicates that to process the additional waste a shredder (currently approved) will be installed. I would ask that the application confirms the potential noise impact from the operation of this equipment and the likely operating times. If necessary, additional noise mitigation measures should be implemented to ensure neighbouring business are not negatively impacted. Recent complaints have included noise from start-up alarms. I would ask that the applicant confirms that any such alarms to the waste transfer activity will be provided with white noise alarms that will not be audible off-site. Additional lorry movements have the potential to increase noise from the site. I would therefore recommend that the existing boundary fence to the rear of the batching plant/waste transfer building be replaced with acoustic fencing to protect neighbouring business."

Following receipt of additional information from the Applicant, the EHO outlined several conditions in respect to noise that they felt were relevant and necessary should permission be granted. These included measures for minimising noise nuisance or disturbance in the locality, the requirement for a noise assessment and the replacement of a boundary fence with acoustic fencing.

More recently, on 25th August 2020, the EHO confirmed that the noise investigation is still on-going, and the most recent complaint was received on 18th August 2020. It is the EHO's view that an acoustic assessment is necessary to

demonstrate that the additional activities proposed by the application will not negatively impact neighbours (be they residents or businesses) and to identify any additional mitigation measures necessary if the development is permitted.

Air Quality

Given that the site is located in one of four Air Quality Management Areas in Charnwood, the proposed application exceeds the thresholds for requiring an Air Quality Assessment. During the initial consultation period, Charnwood's EHO confirmed that an Air Quality Assessment was required to support the application.

Following receipt of the requested Air Quality Assessment from the Applicant, the EHO made further comments: "Whilst I would confirm the assessment methodology used was acceptable, no roadside monitoring is currently undertaken for NO_x or PM_{2.5} in the vicinity of the site and I would question the validity of verifying NO_x results from a monitoring location (diffusion tube 23) at Birstall.

Impacts on NO₂, PM₁₀ and PM_{2.5} concentrations as a result of road vehicle exhaust emissions were predicted to be negligible at all receptor locations. However, the local AQMA was declared for likely exceedance of the 24-hour mean of PM₁₀ rather than the annual mean. I therefore have some concerns that impact on this Air Quality Objective (AQO) may have been under-estimated.

Traffic data for Granite Way was not available from the DfT and therefore flows were obtained from the 'Detailed Assessment of Respirable Particulate PM₁₀, Mountsorrel' report produced by WYG on behalf of CBC. This report is dated April 2011 and although baseline traffic data was converted to 2020 flows utilising a proprietary software I am concerned that this may have under estimated traffic numbers, especially HDV flows, due to development in this area since 2011, following recent re-configuration of the quarry and development of haulage/ waste amenity sites.

Re-suspension of particulate matter from vehicles using Granite Way was a potential concern at the declaration of the AQMA. With vehicles related to this and other sites already parking on Granite Way effective road cleaning is becoming more difficult and this is contributing to nuisance dust at neighbouring receptors. Any additional HGV movements has the potential to exacerbate this issue.

The NPPF states that 'Development should, wherever possible, help to improve local environmental conditions such as air and water quality' and should consider "measures that could deliver improved air quality even when legally binding limits for concentrations of major air pollutants are not being breached'."

The EHO outlined several conditions in respect to air quality that they felt were relevant and necessary should permission be granted. These included the need for an air quality monitoring regime to track changes in local pollutant levels, a dust management and monitoring plan, and additional vehicle parking facilities within the site.

27. Environment Agency: No objection.

28. Mountsorrel Parish Council: Objection.

Key concerns relate to increase in HGV movements and associated impact on residential amenity and road safety – for both drivers and pedestrians. The access from Granite Way to Waitrose supermarket is described as ‘a difficult junction on a road where speeding is a known issue’. The Parish Council have also raised concern about potential for increased danger at both roundabouts on Granite Way/A6. The total movements of one lorry per 4.7 minutes is described as having an unacceptable impact in a village setting and an unacceptable environmental impact in an area where these issues have been a continuous concern for residents, one which is being constantly monitored and pro-actively addressed. The Parish Council supports Councillor Fryer's request that the application be considered by the Development Control and Regulatory Board (DCRB).

29. Quorn Parish Council: Response not received at the time this report was written.

30. Quorn & Barrow ED – Mrs. Hilary Fryer CC - Requested that the application be considered by the DCRB. The reasons given include the increase in vehicle movements and capacity of Granite Way given the number of other companies using the same road (Tarmac, Serco, LCC), flooding on the access road onto A46, difficulty in ensuring vehicles follow prescribed route rather than going via villages, residential properties in close proximity and hours of working.

31. Highways: No objection.

32. Lead Local Flood Authority (LLFA) - Leicestershire County Council: No objection.

33. Leicestershire County Council (Heritage): No objection.

Leicestershire County Council's Principal Historic Buildings Officer is satisfied that the proposed increase in waste would not cause additional harm to the designated heritage assets given the industrial setting of the land, connection to a modern highway network and separation from the designated conservation areas in Mountsorrel and Quorn.

34. Historic England: No objection.

35. Natural England: No objection.

36. Leicestershire County Council (Ecology): No objection.

Publicity

37. The proposal was advertised by site notice posted on 30th March 2020, press notice, and letters sent to the nearest neighbouring residences. Four objections were received from members of the public. Concerns were raised in relation to potential impacts of the proposed intensification of the site including the

associated increase in HGVs especially given current alleged conditions (speeding and indiscriminate parking), air quality (pollution/dust), and noise associated with operations on site.

Assessment of Proposal

38. The application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the main issues for consideration relate to the suitability of, and need for, a strategic facility in this location, effects upon amenity in terms of air quality and noise given the site's close proximity to sensitive receptors and the potential for cumulative impact.

General Location and Policy

39. One of the principal aims of the Leicestershire Minerals and Waste Local Plan (MWLP) is to direct waste developments to specific areas of the county. In the determination of the extant permission (2016/169/02), the site was described as not meeting the criteria of a 'strategic' site given the throughput and type of operation proposed at the time. However, it is considered that the development proposed today constitutes a strategic facility due to the increase in throughput and the amended definition of what constitutes a strategic facility in the recently adopted MWLP. Therefore, Policy W3: Strategic Waste Facilities is the starting point for assessing its suitability in terms of location.

40. Policy W3 states that planning permission for strategic sites will be granted provided that they are located within the Broad Locations for Strategic Waste Facilities indicated on the Key Diagram, which seeks to locate the largest waste management facilities in close proximity to the largest arisings, i.e. urban concentrations with populations above 30,000 around Leicester, and in and around Loughborough/Shepshed, Hinckley/Burbage, and Coalville. The site falls outside of the Broad Locations for Strategic Waste Facilities.

41. The applicant has stated within the supporting covering letter for the application that the proposal complies with policy W5: Locating Waste Facilities however this policy is supplementary to policies W3: Strategic Waste Facilities and W4: Non-Strategic Waste Facilities, thus, it would only be relevant had the provisions of policy W3 been met.

42. The facility was first permitted in June 2017 on the basis of it being a non-strategic facility with clear operational and environmental benefits. The proposal comprised the relocation of an existing waste operation from a neighbouring site on Granite Way to this site, which offered the benefit of a purpose-built building. Therefore, the requirements of policy WCS3 (which preceded Policy W4) were met. In addition, an accompanying Section 106 agreement ensured that the existing neighbouring waste use would cease as a result, therefore there was no net increase in throughput proposed for Granite Way. It was also noted that there were demonstrable reasons for the continuation of a 'local skip business' in the smaller settlement of Mountsorrel.

43. The current proposal does not offer any clear operational or environmental benefits, and proposes a net increase of 60,000 tonnes, which would result in a

strategic waste facility in a location that is not supported by the Minerals and Waste Local Plan.

Air Quality

44. The proposal seeks to increase HGV movements to and from a site located within an Air Quality Management Area (AQMA). Charnwood Borough Council's LAQM Annual Status Report 2019 refers to the Mountsorrel AQMA as one of the '2 major air quality areas of concern for the Council' namely due to PM₁₀ concentrations. Therefore, during the statutory consultation period for the application, the Environmental Health Officer recommended that an Air Quality Assessment (AQA) be undertaken in support of the application.
45. The AQA concluded that impacts on NO₂, PM₁₀ and PM_{2.5} concentrations as a result of road vehicle exhaust emissions were predicted to be 'negligible' at all receptor locations. Traffic data for Granite Way was obtained from a 2011 report produced on behalf of Charnwood Borough Council titled 'Detailed Assessment of Respirable Particulate PM₁₀, Mountsorrel' and baseline traffic data was converted to 2020 flows utilising a proprietary software. It is considered that the flows forecasted (4% above the baseline) are appropriate.
46. However, the EHO commented that re-suspension of particulate matter from vehicles using Granite Way was a concern at the declaration of the AQMA, and that due to vehicles related to this site and other sites already parking on Granite Way, effective road cleaning is becoming more difficult and this is contributing to nuisance dust at neighbouring receptors. Any additional HGV movements are considered to have potential to exacerbate this issue.
47. The NPPF states that "Development should, wherever possible, help to improve local environmental conditions such as air and water quality" and should consider "measures that could deliver improved air quality even when legally binding limits for concentrations of major air pollutants are not being breached".
48. Paragraph 5 of Planning Practice Guidance for Air Quality advises on where air quality is relevant to a planning decision and states that concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans.
49. The proposed development is unlikely to directly cause an exceedance of the air quality objectives for the Mountsorrel AQMA. However, any adverse impact such as the predicted increases in NO₂, PM₁₀ and PM_{2.5} identified in tables 12, 13 and 14 of the submitted AQA, has potential to adversely affect the progress of the air quality strategy currently in place for the area. Intensification of the facility, when taking account of its close proximity to sensitive receptors within a declared Air Quality Management Area, is not considered to provide adequate protection to the environment and the amenity of local residents. However, it is considered that this potential harm can be satisfactorily mitigated through conditions, as recommended by the EHO.

Noise

50. At the time of writing, the site is being investigated by Charnwood Borough Council's Environmental Health department for complaints relating to noise.
51. Policy DM2 states that planning permission will be granted where it is demonstrated that the potential effects from noise (among other criteria) to adjoining land uses and users and those in close proximity to the proposal would be acceptable.
52. As a result of the ongoing noise investigation that has been ongoing for a number of months and the EHO confirming that complaints have been received as recently as August 18th, 2020 from neighbouring properties, it is not considered that the proposed development meets the requirements of DM2 as there is insufficient evidence to demonstrate that the proposed increase in throughput and additional HGV movements would not exacerbate an existing problem and cause further harm to amenity.

Highways

53. There is no limit on the number of HGVs under the current permission, except for Sundays and public holidays. The site is effectively controlled by its throughput limit and hours of operation.
54. The additional throughput being sought (i.e. an additional 60,000 tonnes per annum) would be carried by vehicles with a greater payload and typically equate to an additional 20 loads (40 movements) per day, and these would be spread across the working day.
55. The Local Highway Authority have confirmed that, when looking at the site as a whole, the total movements per day would be 180, which equates to approximately 16 per hour over an 11-hour working day. This equates to an increase of approximately 3 trips (6 movements) per hour. The opinion of the Local Highway Authority is that the proposed increase in movements is not considered significant.
56. On the basis of the above assessment, the proposal complies with Policy DM9 as the highway network is able to accommodate the additional traffic.

Cumulative Impact

57. The site is in close proximity to other similar uses including Mountsorrel Recycling and Household Waste Site directly to the north and Mountsorrel Quarry and associated development to the south. Therefore, there is potential for combined effects arising from simultaneous operations to cause unacceptable impacts, particularly in terms of noise, vibration, dust, and HGV movements.
58. Policy DM11 states that planning permission will be granted where it is demonstrated that cumulative impacts on the environment of an area or on the amenity of a local community are acceptable.
59. The application was not accompanied by an assessment of cumulative impact. Nevertheless, on the basis of the above assessment, the WPA is of view that the proposed additional HGV movements will not have an unacceptable cumulative impact on the highway network and the proposed additional throughput would not

have an unacceptable cumulative air quality impact. However, there has been no assessment of noise arising from the increase throughput, either in relation to the plant and machinery necessary to process the waste or in relation to the increase HGV movements. As such, there is insufficient information to assess the cumulative noise impact arising from the proposed development, contrary to Policy DM11 of the MWLP.

Need

60. The Minerals and Waste Plan covers the need for new waste management capacity within Chapter 4. Tables 5 to 10 and associated text set out the predicted shortfalls that may arise during the timescales of the Local Plan (up to 2031) and predict that, in the main, sufficient capacity is already permitted as of September 2019 to handle the waste requiring management. Therefore, there is no identified need for additional capacity within Leicestershire for waste management facilities of this nature.
61. In terms of need for the applicant, it is stated in the covering letter for the application that the increased throughput would allow the operator to accommodate additional waste streams from a contract with Leicestershire County Council that they are currently tendering for. However, it is considered that tendering for a contract does not sufficiently demonstrate a need for the development and in any event, this does not overcome the policy concern raised above.

Conclusion

62. This proposal is seeking to extend the current facility by increasing its throughput by 60,000 tonnes per annum. The acceptability of the increase is assessed, principally, against the relevant spatial policies of the Minerals and Waste Local Plan. In the context of the relevant locational policies, the extended site would meet the criteria of a strategic site but is not located in or around the Broad Locations identified in Policy W3.
63. Although the site is an established industrial use, it is bordered by sensitive receptors including residential properties on Pawley Close and Hawcliffe Road (approximately 50m at the closest point), and offices approximately 50m to the north-east. The reason given for Condition 3, the subject of this application, was to ensure that the site remained compatible with its location. The proposal would result in a strategic facility which would not be compatible with its location.
64. The proposed increase in throughput would intensify the processing of waste within the site and there would be an associated noise impact. The increase in HGV movements would also alter the noise environment. There has been insufficient assessment of the changes to the noise environment to assess whether any noise impact would be within acceptable limits.
65. No demonstrable overriding need for this facility has been provided. The proposed increase in throughput to the facility is not acceptable in policy terms.

Recommendation

- A. To refuse the proposed development, for the reasons set out in Appendix A.

- B. To endorse as required by the Town and Country Planning (General Development Procedure) Order 1995 (as amended) a summary of how Leicestershire County Council has worked with the applicant in a positive and proactive manner:

In dealing with the applicant and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible. The applicant has been afforded the opportunity to overcome concerns in relation to air quality.

Appendix A

REFUSE, for the following reasons:

1. The proposed increase to the waste facility's throughput would result in a strategic facility in a location not supported by Policy W3 of the Leicestershire Minerals and Waste Local Plan. Therefore, the site is inappropriate for the proposed use and poorly located in respect to waste arisings. The justification for the current waste facility was that it was a non-strategic site that delivered clear operational and environmental benefits. This proposal offers no demonstrated benefits in this respect; thus, it is an unsustainable and inappropriate location for a strategic waste management facility as now proposed. There is no overriding need for the extended throughput in this location and no reasons have been demonstrated why the facility could not be located in an appropriate location. Therefore, the proposal is contrary to policy W3.
2. There is insufficient information to assess the noise impact associated with the proposal and assess whether it complies with Policy DM2 of the Leicestershire Minerals and Waste Local Plan.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the preceding applications.

EQUALITY AND HUMAN RIGHTS IMPLICATIONS

Unless otherwise stated in the report there are no discernible equality and human rights implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Family Services and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Equality Act 2010. You are advised to contact the Equalities function of the County Council's Policy and Partnerships Team if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPULSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

- Section 70(2) : determination of applications;
- Section 77(4) : called-in applications (applying s. 70);
- Section 79(4) : planning appeals (applying s. 70);
- Section 81(3) : provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
- Section 91(2) : power to vary period in statutory condition requiring development to be begun;
- Section 92(6) : power to vary applicable period for outline planning permission;
- Section 97(2) : revocation or modification of planning permission;
- Section 102(1) : discontinuance orders;
- Section 172(1) : enforcement notices;
- Section 177(2) : Secretary of State's power to grant planning permission on enforcement appeal;
- Section 226(2) : compulsory acquisition of land for planning purposes;
- Section 294(3) : special enforcement notices in relation to Crown land;
- Sched. 9 para (1) : minerals discontinuance orders.

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